1999

Joint Legislative Audit Committee: 1999 Year End Report Volume 1

Joint Legislative Audit Committee

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JOINT LEGISLATIVE AUDIT COMMITTEE:

1999 YEAR END REPORT

VOLUME I

REPORTS ISSUED BY THE BUREAU OF STATE AUDITS

Joint Legislative Audit Committee

1999 Year End Report

Assemblymember Scott Wildman, Chair

Prepared by Committee Staff

Joint Legislative Audit Committee

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Volume I

Introduction

In the mid-1950's the California Legislature embarked on a bold policy to invest taxpayer dollars in a state infrastructure that would spur economic development and guarantee that future generations of Californians would enjoy the full promise of this Golden State - the best schools - the best hospitals - the best libraries. Freeways and aqueducts were built and improved from Eureka to San Diego. This was likely the most massive effort of its kind ever seen in America and perhaps in the world.

But with this policy came a great responsibility, a responsibility to ensure that government remained accountable to California taxpayers for the highest level of performance and for each and every tax dollar spent. The citizen legislators of the time saw the need to create by statute a watchdog committee that would be free from political influence and the influence of special interests. To this end, they created the Joint Legislative Audit Committee (JLAC), a committee like no other in the Legislature, a committee charged with making government accountable to California taxpayers.

JLAC's Legislative Role

JLAC is unique in many ways. JLAC does not consider bills, nor does it debate the merits of proposed legislation in the same manner, as do standing committees of the Legislature. Independently, and through the Auditor General/State Auditor, JLAC investigates, studies, analyzes and assesses the financial practices and the performance of existing governmental and/or publicly created entities in California - in order to assist

those entities in fulfilling the purpose for which they were created by the Legislature. If laws or regulations are determined to limit the effectiveness of government, JLAC may propose changes in law. If government does not produce the intended outcomes, JLAC may propose changes to maximize effectiveness or even recommend the elimination of ineffective public entities and laws altogether. To accomplish these ends, JLAC was granted broad authority. Historically, for every dollar spent on auditing and investigating, JLAC and the Auditor General/State Auditor have identified $11 in savings.

JLAC's Authority

JLAC derives its authority from statute, the Joint Rules of the Legislature, and the California Constitution. In addition, to directing the work of the State Auditor, JLAC enjoys the authority to examine the performance and the financial affairs of any and all existing public entities in the State and to conduct hearings at any time and at any place in the State without restrictions.

JLAC's Structure

JLAC was crafted to be non-partisan and continues to fiercely guard its non-partisan tradition. JLAC is composed of seven Assembly members and seven Senators. By statute, the Chair of JLAC is elected and serves until the position becomes vacant. A vacancy may occur upon the non-reelection to office of a JLAC member. Legislators constructed JLAC so that it would not be subject to political whim or changing political agendas.

JLAC Today

Since its creation in 1955, the Joint Legislative Audit Committee, has saved California taxpayers billions of dollars by identifying fiscal deficiencies in public entities and providing needed direction to maximize the utilization of tax dollars. Furthermore, JLAC has assessed the structure and performance of hundreds of publicly created entities and provided the impetus and direction for significant changes within these entities whenever they failed to fully deliver the services to Californians that the Legislature intended and that taxpayers deserve and expect.

Over the past two decades, partisan agendas crystallized, and JLAC's significance began to wane. The results of insufficient oversight have become increasingly apparent in the crumbling infrastructure, the dismal decline in the quality of our educational system, and a revolt by California taxpayers demanding accountability in government.

In 1991, the citizens of California passed Proposition 140, term-limits, and returned citizen legislators to their government in Sacramento. But with the implementation of

Proposition 140, a Legislature composed of pre-term limit professional politicians, decided to redirect resources away from oversight, drastically diminishing the Legislature's ability to ensure accountability in government. Though the authority of JLAC was preserved, the exclusive control of the oversight budget was removed from JLAC.

Today, JLAC has aggressively set out to re-establish accountability in government with strong support from legislative leaders. JLAC has directed the California State Auditor to perform 25 fiscal and performance audits in 1999. Based on information brought before the Committee by Republican, Democratic Legislators most of the audits were commissioned by unanimous agreement among JLAC members and all enjoyed bipartisan support. They include:

- The San Francisco Public Utilities Commission
- Grant Joint Union High School District
- State Board of Education- STAR Testing Program
- County Veterans Service Officers Program
- UCSF and Stanford Merger
- Los Angeles Unified School District- School Site Selection
- CSU Northridge- Center for Sex Research
- Los Angeles Housing Opportunities for Persons with AIDS Program
- Department of Education- Audits and Investigations Division
- Department of Health Services- Surveys and Research
- Water Replenishment District of Southern California
- Wasco State Prison
- Los Angeles Fire Department
- Child Protective Services
- Dymally-Altorre Bilingual Act
- Telephone Rates in Rural California
- Department of Developmental Services
- Department of Rehabilitation
- Century Freeway in Los Angeles
- Los Angeles Unified School District's Business Service Center
- California Public Utilities Commission
- Downey Community Hospital
- School Safety- Conflict Resolution Programs
- Medi-Cal Managed Care Two Plan Model
- Child Support Enforcement

Audits Released by the Bureau of State Audits During the 1999-Year

Discretionary Audits:

98109	**County Emergency Medical Services Funds**: Although Counties Properly Allocate Money To Their EMS Funds, County Policies And Legislative Requirements Unnecessarily Limit Reimbursements To Emergency Medical Care Providers
98116	**Year 2000 Computer Problem**: The State's Agencies Are Progressing Toward Compliance But Key Steps Remain Incomplete
98120	**Los Angeles County Metropolitan Transportation Authority**: Converting Its Poorly Performing Alcohol-Fueled Buses To Diesel Is The Most Cost Effective Option Available
98118.1	**State Board of Equalization**: Budget Increases For Additional Auditors Have Not Increased Audit Revenues As Much As Expected
98118.2	**Franchise Tax Board**: Its Revenue From Audits Has Increased, But The Increase Did Not Result From Additional Time Spent Performing Audits
98114	**State Personnel Board**: Its Management of Disciplinary Hearings Has Improved, But Further Changes Are Necessary
98104	**Health Care Payment Surveys**: Providers And Payers Have Differing Views Over A Complex, Sometimes Unregulated, Health Care System.
97118.2	**Department of Corporations' Regulation of Health Care Plans**: Despite Recent Budget Increases, Improvements In Consumer Protection Are Limited
98115	**California Science Center**: The State Has Relinquished Control To The Foundation And Poorly Protected Its Interests
98117	**Department of Health Services**: Has Made Little Progress In Protecting California's Children From Lead Poisoning
99117.1	**Public Utilities Commission**: Did Not Effectively Manage Its Contract For Investigating San Francisco's December 1998 Power Failure
98124	**Perkins Vocational Education Program**: The State's Use Of Funds To Administer Other Programs Reduced Its Ability To Provide Effective Administration And Leadership

99102	**Department of Health Services**: Despite Shortcomings In The Department's Monitoring Efforts, Limited Data Suggest Its Two-Plan Model Does Not Adversely Affect Quality Of And Access To Health Care
99103	**Child Support Enforcement Program**: Without Stronger Leadership, California's Child Support Program Will Continue To Struggle
99107	**School Safety**: Comprehensive Resolution Programs Help Prepare Schools For Conflict
98115.1	**California Science Center**: It Does Not Ensure Fair And Equitable Treatment Of Employees, Thus Exposing The State To Risk
99113	**Department of Transportation**: Disregarding Early Warnings Has Caused Millions Of Dollars To Be Spent Correcting Century Freeway Design Flaws
99500	**Department of General Services**: The California Multiple Award Schedules Program Has Merit But Does Not Ensure That The State Gets The Best Value For Its Purchases
99128	**UCSF Stanford Health Care**: The New Entity Has Not Yet Produced Anticipated Benefits And Faces Significant Challenges
99118	**Wasco State Prison**: Its Failure To Proactively Address Problems In Critical Equipment, Emergency Procedures, And Staff Vigilance Raises Concerns About Institutional Safety And Security
99112	**Department of Developmental Services**: Without Sufficient State Funding, It Cannot Furnish Optimal Services To Developmentally Disabled Adults
99106	**Department of Health Services**: Although It Has Not Withheld Information Inappropriately, The Department Should Research Findings More Widely Available
99114	**The Los Angeles Unified School District**: It Made Reasonable Decisions In Moving Its Business Services Center, But Must Act Soon To Successfully Relocate To A Permanent Site
99122	**California State University Northridge**: Absent University Standards And Other Guidance, The World Pornography Conference Was Allowable Under The Basic Tenets Of Academic Freedom And Free Speech
99108	**California Public Utilities Commission**: Its Decisions About Deregulating The State's Telecommunications Industry Will Not Affect

Residents Immediately And The Long-Term Effects Of Policy Changes Are Unknown

99110 **Dymally-Alatorre Bilingual Services Act**: State And Local Governments Could Do More To Address Their Clients' Needs For Bilingual Services

99119 **Los Angeles City Fire Department**: The City Can Do More To Enhance The Safety .And Effectiveness Of Its Air Operations Unit

99108 **California Public Utilities Commission**: Its Decisions About Deregulating The State's Telecommunications Industry Will Not Affect Residents Immediately And The Long-Term Effects Of Policy Changes Are Unknown

99110 **Dymally-Alatorre Bilingual Services Act**: State And Local Governments Could Do More To Address Their Clients' Needs For Bilingual Services

99119 **Los Angeles City Fire Department**: The City Can Do More To Enhance The Safety And Effectiveness Of Its Air Operations Unit

99120 **Child Protective Services**: Agencies Are Limited in Protecting Children From Abuse by Released Inmates

Mandatory Audits:

98020 **Department of Rehabilitation**: The Business Enterprise Program For The Blind Is Financially Sound, But Opportunities For Improvement Exist

98024 **Department of Justice**: Has Taken Appropriate Steps To Implement The California Witness Protection Program, But Additional Controls Are Needed

99005 **State of California**: Treasurer's Cash Count As Of December 31, 1998

98002 **State of California**: Internal Control And State And Federal Compliance Audit Report For The Fiscal Year Ended June 30

98017.1 **State Board of Equalization**: Its Tax Settlement Program Continues To Have Merit

9817.2 **Franchise Tax Board**: Its Tax Settlement Program Remains An Important Alternative For Dispute Resolution

98027 **Department of Toxic Substances Control**: The Generator Fee Structure Is Unfair, Recycling Efforts Require Improvement, And State and Local Agencies Need To Fully Implement The Unified Program

99001.1 **Overtime for State Employees**: Some Departments Have Paid Too Much In Overtime Costs

98113 **Department of Education**: Lax Monitoring Led To Payment Of Unsubstantiated Adult Education Claims And Changes In The Program May Seriously Impact Its Effectiveness

97025.1 **Department of Health Services**: The Forensic Alcohol Program Needs To Reevaluate Its Regulatory Efforts

I99-2 **Investigations of Improper Activities by State Employees**

96036 **In-Home Supportive Services**: Since Recent Legislation Changes The Way Counties Will Administer The Program, The Department Of Social Services Needs To Monitor Service Delivery

99022 **Department of Transportation**: Seismic Retrofit Expenditures Generally In Compliance With The Bond Act

99024 **Department of Justice**: It Is Beginning To Address Our Recommendations To Improve Controls Over The California Witness Protection Program

I970051 **Investigative Report**: The California State University At Fullerton Mismanaged Trust Accounts, Contracts

Reports that were authorized in 1998 released in 1999

98109 County Emergency Medical Services Funds: Although Counties Properly Allocate Money to Their EMS Funds, County Policies and Legislative Requirements Unnecessarily Limit Reimbursements to Emergency Medical Care Providers, January 1999

Senator Kenneth Maddy requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit to ensure that counties with an Emergency Medical Services (EMS) Fund are depositing into their EMS Funds the amount of money required by statute (Senate Bill 12, Chapter 1240, Statues of 1987).

Background

The EMS Fund was established in 1987 by state law as a funding mechanism to compensate emergency physicians, specialty physicians on call to the emergency department, and hospitals for the provision of emergency services for those who have no health insurance and are unable to pay for their care. The Emergency Medical Services Authority in the Health and Welfare Agency is primarily responsible for assessing EMS areas to determine the need for additional emergency medical services; planning and implementing guidelines for emergency medical services; and providing technical assistance to existing agencies, counties, and cities regarding emergency medical services systems.

The EMS Fund relies upon each county treasury to transfer into its EMS Fund a fraction of every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses and vehicle code violations, as set forth in statute. Once the fund is established, statutes require the county to allocate a certain portion of the funds to physicians, hospitals, and the county for emergency services and for the cost of administering the fund. Each county that establishes this fund reports to the Legislature on January 1 of each year the implementation and status of the EMS Fund. Among other things, the report includes the fund balance, the amount of money disbursed, the pattern and distribution of claims, the amount of moneys available to be disbursed, and a statement of policies and procedures.

Audit Results

To compensate health care providers for emergency services for the uninsured and medically indigent and to ensure this population has continued access to emergency care, the Legislature enacted Chapter 1240, Statutes of 1987, allowing counties to establish an EMS fund. Through EMS funds, counties can reimburse these providers for up to 50 percent of their losses. To date, 43 counties have established EMS funds. EMS funds are financed through penalties assessed on certain criminal and motor vehicle fines and forfeitures.

A review of the administration of EMS funding and the counties compliance with laws governing the use of the funding, focusing on a sample of six counties of varying sizes-Humboldt, Los Angeles, Sacramento, San Bernardino, San Francisco, and San Juaquin. While the six counties appropriately allocate penalty assessments to their EMS funds, annual deposits into their funds has decreased significantly since fiscal year 1990-91. This downward trend is primarily due to the adverse effects of legislation that diverted money from the EMS funds. EMS fund deposits from state tobacco tax revenues has also declined due to a decrease in cigarette and tobacco purchases.

Additionally, although the counties ensure that reimbursements to EMS providers are consistent with state law, the financial support providers receive is often less than it could be. Because of their own policies and legislative constraints, counties are not fully utilizing EMS funds to reimburse providers. Consequently, six of the counties reviewed have accumulated balances totaling $30.3 million in their EMS funds. As a result, the counties may deprive health care providers of cost reimbursement when providing emergency medical care.

Finally, the Bureau of State Audits noted weaknesses in the counties' management of EMS fund administrative costs. Although the six counties visited by the Bureau of State Audits routinely allocate ten percent of their EMS revenue for administrative costs, two of the counties could not fully substantiate their administrative charges. Moreover, some counties did not spend the entire amount allocated for administration. Rather, they retained the excess funds in a sub-account to reimburse subsequent years' administrative costs instead of reallocating the funds to other EMS program accounts. The law states that counties can use up to ten percent of the EMS funds for administration; however, it does not allow counties to carry over the entire amount of unspent administrative funds to cover administrative costs in subsequent periods. As a result, these counties are violating the law's intent by not reallocating the unused administrative funds to all EMS accounts. Further, because they do not reallocate unused administrative funds, counties are not maximizing the benefit to EMS providers by increasing the reimbursement rate for unpaid provider costs.

Audit Recommendations

To maximize financial support for emergency medical service providers and better achieve the objectives of the EMS statutes, the Bureau of State Audits recommended the following actions:

- San Bernardino and Los Angeles Counties should consider increasing their existing reimbursement rates in order to fully utilize their growing EMS fund balances. Moreover, all counties with EMS funds should periodically review the status of their EMS fund reserve and adjust reimbursement rates accordingly.

- The Legislature should consider revising the current statute to allow counties the flexibility to exceed the 50 percent maximum reimbursement rate for EMS providers when counties accumulate increasingly large EMS fund balances. The

Legislature should consider expanding the type of medical services allowed under the current law to enable counties to provide financial relief to other medical service providers incurring unreimbursed costs.

- San Joaquin County should initiate disbursements of the EMS revenues accumulated from court penalty assessments. Additionally, San Juaquin County should make the disbursements on a annual basis.

- All counties should use EMS administrative funds solely for EMS program expenses and maintain these funds in separate accounts. All counties should also reallocate unused administrative funds in a given fiscal year to all EMS accounts based on the percentages described in the Health and Safety Code.

- San Bernardino County should begin depositing interest earned on EMS fund balances from court penalty assessments back into the EMS fund. San Bernardino County should calculate the unpaid interest earned on such EMS balances since January 1, 1992, and deposit those funds into the EMS fund.

Agency Response

Five of the six agencies reviewed by the Bureau of State Audits chose to comment. In general, the counties agreed with the conclusions and recommendations. However, Los Angeles and San Francisco Counties disagreed with the conclusions regarding increasing EMS provider reimbursement rates when available resources exist. San Francisco County also disagreed with the conclusion that the law does not allow counties to carry over unspent administrative funds solely to cover administrative costs in subsequent periods.

98116 Year 2000 Computer Problem: The State's Agencies Are Progressing Toward Compliance but Key Steps Remain Incomplete, February 1999

Assemblywoman Elaine Alquist, Senator Quentin Kopp, and Senator John Vasconcellos requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit on the Year 2000 (Y2K) progress in state departments, agencies, commissions, and boards.

Background

In November 1996, the Department of Information Technology (DOIT) issued the *"California 2000 Program Guide"* requiring each State Department to provide the DOIT with the status of its Y2K efforts and an inventory of its automated applications and databases. Less than a year later Governor Wilson signed an executive order directing State Departments to have their "essential systems" Y2K compliant by December 31, 1998.

The DOIT reported that California has more than 1,357 "mission critical" information technology systems/projects in need of a Y2K remedy in 1998. An independent consulting group observed that industry wide, only 12 percent of these projects were completed on time and within budget. The risk is that if these mission critical systems/projects miss their targeted implementation dates, it is likely to cause an interruption in key services or contaminate critical financial systems.

The DOIT currently requires State Departments to submit monthly tracking reports listing the Y2K status of each mission critical project. Although, the DOIT does not audit any of the State Departments' reported information, it does report its oversight activity to the Legislature through quarterly reports. The legislative members, in turn, use the reports to question State Department officials about their Y2K projects.

Audit Results

This is the second Bureau of State Audits report regarding State Agencies' progress in resolving the problems with their computer systems caused by the year 2000. As reported in August 1998, State Agencies are making progress toward correcting critical computer systems to ensure the uninterrupted delivery of essential services to Californians; however, there are concerns that many of the fourteen agencies that provide the most critical services are still not Y2K compliant. Eleven State Agencies have not completely tested their computer systems, nor have seven corrected or replaced the embedded chips that control certain areas of their systems' computerized activities.

For example, the Employment Development Department estimates that it will not complete testing of the unemployment insurance system until September 1999. This critical system manages over $2.9 billion in annual payments to unemployed workers. In another instance, the Department of Corrections does not expect to correct and test embedded technology in the electrified fences at 23 prisons until September 1999. Such

late completion dates may not give the State Agencies enough time to resolve any unforeseen problems before January 1, 2000, which may cause financial hardship to or imperil the safety of Californians. Additionally, five State Agencies have not completely resolved critical issues with their data exchange partners.

Moreover, 14 of 20 computer systems at these vital State Agencies are essential to core business functions and, according to a Governor's executive order, should have been fixed by December 31, 1998. Worse yet, with less than eleven months until the new millennium begins, eleven State Agencies still have no business continuation plans if their computer systems are not corrected in time or fail to work. Equally unprepared are almost two-thirds of all 462 State programs because State Agencies still have critical tasks to complete, such as executing and documenting full system testing, correcting embedded technology, or remedying data exchange problems. Over half of all programs must also develop business continuation plans to cover the possibility that their remediation efforts might fail.

Further, The Teale Data Center (Teale), one of the State's two largest data centers that supports hundreds of the State's clients, has a poor strategy to protect its clients from the ill effects caused by year 2000 problems. Teale lacks a year 2000 plan that addresses critical client services and has allocated few resources to year 2000 tasks. Although, Teale has developed a time machine environment for testing a system's ability to function after December 31, 1999, it does not monitor its clients' use of this environment. Also, Teale has not required clients to abandon noncompliant software that could corrupt data or destabilize its processing environment.

In contrast, the Health and Welfare Data Center (HWDC) has a comprehensive year 2000 plan that addresses critical client services and has devoted significant resources to executing its plan. The HWDC also encouraged its clients to perform year 2000 testing in its time machine environment and is monitoring client use to ensure its mainframe computers are year 2000 ready. In addition, the HWDC is precluding its clients from using software that is not year 2000 compliant.

With time running out and no potential for an extension, it is troubling to find so many State computer systems are still in need of some remediation before State Agencies can ensure a minimal risk of failure. What is more disturbing is that many of the same agencies that have not completed business continuation plans to deliver services if their efforts are further delayed or fail to work.

Finally, of additional concern is the fact that no single entity is charged with overseeing the year 2000 readiness of electric and telecommunication utilities essential to the delivery of state and other public services. Instead, a variety of entities, including commissions, elected boards, and nonprofit organizations, regulate and monitor portions of the systems. For example, the California Public Utilities Commission is monitoring portions of the electrical industry and all of the telecommunication providers in California, but it just began these efforts and may not present results until at least April 1999. Further, although the North American Electrical Reliability Council is monitoring

efforts on a national level, its reported results are preliminary and based on self-reported information.

Audit Recommendations

To ensure that State Agencies' Systems are year 2000 ready and that California's vital services are not interrupted at the beginning of the new millennium, the Governor or the Legislature should do the following:

- Appoint an independent quality assurance agent or independent verification and validation group to review critical systems supporting the 17 programs the Bureau of State Audits believe are vital to California. Until this appointed authority certifies that an agency has completed all testing, remedied embedded technology, and fully address all data exchange issues within its control, the Governor or the Legislature should direct the Department of Information Technology or other governing body to deny the agency approval for any new information technology projects.

- Closely monitor the progress of the systems supporting state programs that have not completed efforts to resolve year 2000 problems. If progress appears to be falling behind the completion date, the Governor or the Legislature should consider what tasks remain, whether adequate resources are available to complete them, and take appropriate action to ensure successful completion. Such action may include assisting State Agencies in obtaining outside resources, such as consultants, or reallocating knowledgeable staff from other State Agencies.

- Monitor all State Agencies' efforts to ensure the completion of business continuation plans by June 30, 1999.

- Designate one authority to assess, oversee, and report on the year 2000 preparations of critical public utilities serving California, such as electricity and telecommunication services.

To affirm that its own computer systems will operate properly after January 1, 2000, Teale should monitor its clients' use of its time machine environment and consider further testing for those portions of the systems not tested by clients. Further, to ensure that its clients are given the opportunity to investigate whether they could be at risk of system interruptions, Teale should notify the six clients that used an earlier software version in its time machine environment. Finally, to avoid the potential for data corruption and instability in its operating system, Teale should remove any noncompliant software products from its computers before January 1, 2000.

Agency Response

The Governor's office agreed with the findings of the Bureau of State Audits and stated that the new administration is keenly aware of the challenges posed by the year 2000 problem. The Governor's office also stated that the Governor will soon announce a plan that will address the issues identified in the report. The Teale Data Center agreed with the Bureau of State Audits recommendation that it notify its clients that used an earlier software version in its time machine. Teale disagreed with the conclusion that it lacked a successful strategy for its year 2000 remediation plan, but is researching methods available to monitor clients' use of its time machine. The Health and Welfare Data Center agreed with the findings but chose not to respond formally.

98120 Los Angeles County Metropolitan Transportation Authority: Converting Its Poorly Performing Alcohol-Fueled Buses to Diesel Is the Most Cost Effective Option Available, February 1999

Chairman Wildman requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the financial aspects and current operational condition of the Los Angeles County Metropolitan Transportation Authority's (LAMTA) alcohol-fueled bus fleet. Specifically, the audit is to examine the LAMTA's decision to convert its alcohol-fueled bus fleet to diesel fuel and to request an analysis to determine whether the use of public funds to convert these buses is justified.

Background

The LAMTA was established in 1993 by state law as the result of the merger of the Los Angeles County Transportation Commission and the Southern California Rapid Transit District. The LAMTA is governed by a 14-member board of directors and it oversees all regional bus and rail operations; plans and constructs a countywide rail system; develops transportation policies and a long-range plan; programs federal, state, and local revenues for public transit, transportation demand management, bikeways, and highway projects of Los Angeles County; and coordinates activities among Los Angeles County's many transportation agencies.

Audit Results

The Los Angeles County Metropolitan Transportation Authority (MTA) coordinates all public transportation services in Los Angeles County, including long-range regional transportation, light and heavy commuter rail systems, and bus service. The review by the Bureau of State Audits focused on the financial aspects and current operational condition of the MTA's alcohol-fueled buses and on the MTA's decision to convert them to diesel-fueled buses. Based on the circumstances surrounding the purchase of the alcohol-fueled buses, as well as the ongoing problems associated with them, the Bureau of State Audits found that the MTA's choice to convert the buses to diesel is the most cost-effective option that also meets environmental standards.

Starting in 1989, the MTA anticipated changes in vehicle emissions standards and began experimenting with buses that ran on alcohol and compressed natural gas. The industry was just beginning to develop engines that operated on alternative fuels, and the MTA's choices for replacing and expanding its bus fleet with alternatively fueled buses was limited. By fiscal year 1992-93, it owned 333 alcohol-fueled buses, comprising 14 percent of its fleet and constituting one of the largest alternatively fueled fleets in the nation.

The MTA, along with other transit districts, encountered many problems with these alcohol-fueled buses, despite its reasonable efforts to follow the engine maintenance requirements in the purchase agreements. The MTA therefore pursued its rights under

the warranty provisions included in the purchase agreements. By 1996, the warranties had covered at least $16 million in repair costs.

By February 1998, the MTA had pulled 127 alcohol-fueled buses with failed engines and expired warranties out of service. By this action, the MTA risked losing the federal government's 80 percent share of the more than $50 million it still owed on these buses. In response to this problem, its board of directors approved the MTA's recommendation to convert all 324 of its remaining alcohol-fueled engines to diesel engines that meet appropriate vehicle emissions standards. Thus ensuring ongoing service from this failing segment of its fleet. Under the plan, buses are not converted until their engines experience catastrophic failure and their warranties expire. As of January 1999, 42 buses have been converted to diesel while 234 of the remaining buses are nonoperational, leaving only 48 still in service.

Although, converting all 324 of its remaining alcohol buses to diesel fuel is not the most environmentally sensitive option available to the MTA, the converted engines will meet both State and Federal emissions standards for urban bus engine conversions. Converting the engines to cleaner compressed natural gas would cost the MTA an additional $88,300 per bus, which includes both the incremental difference to convert to compressed natural gas as well as extra operating costs over the remaining service life of the bus. This would entail a total cost of $85.7 million for converting all 324 buses, a considerably higher amount than the $57.1 million it would cost to convert the buses to diesel.

Agency Response

The Bureau of State Audits reported that the MTA was pleased that the findings support its decision to convert its alcohol-fueled buses to diesel fuel.

198118.1 State Board of Equalization: Budget Increases for Additional Auditors Have Not Increased Audit Revenues as Much as Expected, March 1999

Senator Charles Poochigian requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit on the State Board of Equalization (BOE) audit programs. Specifically, the accuracy and reliability of reports provided to the Legislature regarding the cost and benefits of their respective audit programs.

Background

Since the 1992-93 budget cycle, the Legislature has added 273 audit positions to the BOE and added 167 audit positions to the Franchise Tax Board (FTB). Many of these increases in staff occurred during a period of fiscal difficulty in the State when most agencies were absorbing reductions to their staff and budget. According to Senator Poochigian, the BOE and FTB justified increases in their budgets by indicating that the State would gain $5 for every $1 spent on their audit function. Therefore, the State could actually increase its revenue by increasing the size and budget of the audit functions within the tax agencies.

In 1996, the Legislative Analyst's Office (LAO) questioned the accuracy and reliability of the costs and benefits of the audit program claimed by the BOE and the FTB. The Supplemental Report of the 1997-98 Budget Act required the BOE and the FTB to submit reports to the Legislature by November 1, 1997, regarding the costs and benefits of their respective audit programs.

The BOE and the FTB submitted their reports to the Legislature on October 31, 1997, and December 23, 1997, respectively. Nevertheless, Senator Poochigian believes that the issue of the costs and benefits of the audit programs has not been resolved because the information contained in the reports has not been reviewed or audited by an independent entity.

Audit Results

Although the BOE has increased its revenues from audit activities, the increases are significantly less than the BOE projected. Beginning in fiscal year 1992-93, the Legislature approved 250 auditing positions to supplement the BOE's audit staff. This was based on the BOE's assertion that the additional staff would return $5 for every $1 of increased funding for a total of $364.2 million by fiscal year 1997-98. The increased revenue has reached only $241.2 million, however, which is $123 million less than projected. Consequently, the rate of return on the funding is only $3 for every additional $1 spent. When the figure is adjusted to consider that the new auditors are generally placed on less complicated, lower-dollar audits and to account for a sales tax increase in July 1991, the true rate of the return is closer to $2 for every $1 spent.

The BOE does not meet its revenue projections for several reasons. Despite the added staff, annual audit hours during fiscal year 1997-98 were essentially the same as they were before the staffing increase. Audit hours directly affect revenues; therefore, lower audit hours mean lower audit revenues. Further, the BOE has assigned more than half of its new staff to support positions that do not directly generate audit revenues.

The Bureau of State Audits also found that the BOE revenue projections have some flaws. The BOE did not consider that new auditors spend less time conducting audits and produce lower-dollar assessments during their first year of employment. Additionally, experienced auditors do not produce audit revenues while training new staff. Another flaw is that the BOE overestimated the average amount of time auditors actually spend on audits: it used an average of 1,600 audit hours per auditor per year in its calculations, but our review found that auditors average only 1,400 hours per year. Moreover, the BOE did not always factor in staff vacancies.

Finally, the Legislature asked the BOE to report on audit program revenues, costs, and staffing. The Bureau of State Audits found that the BOE's report is sufficiently responsive and generally accurate. However, the information requested for inclusion in the report was not specific enough to allow readers to fully assess the additional revenues resulting from the additional audit positions.

Audit Recommendations

The BOE should use approved audit positions to conduct audits. If the BOE determines that the auditors are better used elsewhere, it should report staff reassignments to the Legislature. The Legislature and the BOE should agree on how to determine the additional revenues that new audit positions will generate. Also, the Legislature should require the BOE to report any reassigned audit positions.

To project audit revenues more accurately, the BOE must consider the reduced audit hours and the added training costs of new auditors. In addition, the BOE should base its revenue projections on the actual time staff spent on audits and realistic staff vacancy rates.

Finally, the Legislature should specifically request information from the BOE.

Agency Response

The Board of Equalization generally agrees with the findings of the Bureau of State Audits, and provided additional perspective and clarification on its use of auditor positions to perform support functions.

98118.2 Franchise Tax Board: Its Revenue From Audits Has Increased, but the Increase Did Not Result From Additional Time Spent Performing Audits, March 1999

Senator Charles Poochigian requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit on the Franchise Tax Board's audit programs. Specifically, the accuracy and reliability of reports provided to the Legislature regarding the cost and benefits of their respective audit programs.

Background

Since the 1992-93 budget cycle, the Legislature has added 273 audit positions to the BOE and 167 audit positions to the Franchise Tax Board (FTB). Many of these increases in staff occurred during a period of fiscal difficulty in the State when most agencies were absorbing reductions to the staff and budget. According to Assemblymember Poochigian, the BOE and the FTB justified increases in their budgets by indicating that the State would gain five dollars for every one dollar spent on their audit function. Therefore, the State could actually increase its revenue by increasing the size and budget of the audit functions within the tax agencies.

In 1996, the Legislative Analyst's Office (LAO) questioned the accuracy and reliability of the costs and benefits of the audit program claimed by the BOE and the FTB. The Supplemental Report of the 1997-98 Budget Act required the BOE and the FTB to submit reports to the Legislature by November 1, 1997, regarding the costs and benefits of their respective audit programs.

The BOE and the FTB submitted their reports to the Legislature on October 31, 1997, and December 23, 1997, respectively. Nevertheless, Assemblymember Poochigian believes that the issue of the costs and benefits of the audit program has not been resolved because the information contained in the reports has not been reviewed or audited by an independent entity.

Audit Results

The FTB is one of the primary tax-collecting agencies in the State. For fiscal years 1990-91 through 1997-98, it collected an average of $20 billion in Personal Income Tax revenues and $5 billion in Bank and Corporations tax revenues, annually. To increase the FTB audit revenues, the Legislature authorized 362 new audit positions for the FTB audit branch between fiscal years 1992-93 and 1995-96. The FTB projected a $993 million return on the State's $73 million investment in these additional positions.

Since one interpretation of revenue increase is an increase in revenues from prior years, The Bureau of State Audits computed the growth in audit revenues before and after the staffing increases. The analysis isolates the impact of the additional audit positions by eliminating revenues from audits, such as follow-ups on Internal Revenue Service (IRS)

leads and audits with potential for large-dollar assessments, that the FTB would complete even if it did not have the additional staff.

The Bureau of State Audits determined that the FTB's revenue increases of $558 million would have occurred regardless of the added positions. The increases came from audit types that traditionally receive high staffing priority because of their potential for very high returns. In fact, when they isolated the impact of the new audit positions from the continuing efforts of the entire audit branch, they found that revenues actually decreased by $128.6 million from prior years in the audits where one would expect the FTB to assign new staff. Several factors have contributed to a decrease in revenues in these types of audits. However, one significant reason is that the FTB is not spending additional time on these revenue-generating audits. Instead, although the total hours for the entire audit branch increased to reflect 100 to 130 additional audit staff, the number of hours spent performing audits dropped.

The FTB disagrees with the assessment of its performance and asserts that it has not only met its projection of $993 million in increased revenue, but has exceeded it by an additional $490 million. To determine these amounts, the FTB used a differing interpretation of a revenue increase from audits; a method that the FTB asserts was understood by readers of its budget documents. The FTB's analysis compares budgeted revenues to actual assessments; however, it does not isolate the benefits of the additional staff.

The Bureau of State Audits believes that the FTB's budgeting concept that forecast's future audit revenues by estimating the effects of changes in tax laws, changes in the economy, and other relevant factors is defensible. However, the FTB's analysis does not fully describe its actual revenue resulting from the State's investment in the new positions because it did not exclude the effects of IRS leads and audits with potential for large-dollar assessments that it would have completed even without the additional staff.

To fully describe the actual revenue it received as a result of the State's investment in new positions, the FTB's analysis should indicate, by category of revenue, the hours to be charged to specific types of audits, and the audit revenues projected to result from each types if the staffing increase is approved or denied. The FTB then needs to compare these projected hours and revenues to subsequent actual hours and revenues by the type of audit.

The FTB anticipates that changes in IRS operations will result in a decrease in the leads from this source and reduce audit revenues by at least 30 percent. Based on fiscal year 1997-98 data, each 10 percent drop in IRS leads could result in a $41 million decrease in audit revenues annually. Not only do many of the FTB's audit assessments stem from IRS leads, but the costs associated with audits from these leads are lower, thus providing a greater return for each dollar it spends. For example, during fiscal years 1992-93 through 1997-98, audit assessments from IRS leads averaged $374 million annually, but the FTB spent only $12 million each year to generate these revenues.

The Legislature asked the FTB to report on the benefits and costs of its audit program; however, it did not request information specific enough to fully assess the revenues resulting from the FTB's 362 additional audit positions. Furthermore, the FTB's report did not include essential assessment information such as all costs of its audit program.

Audit Recommendations

The Franchise Tax Board should do the following:

- The FTB's budget documents should clearly indicate whether the FTB will use additional personnel hours for mandatory activities, such as filing enforcement and tax return processing, or for audit activities that are discretionary. If the additional hours will be used for audits, the budget documents should explicitly show, by category of revenue, the hours that will be charged to discretionary audits as well as the audit revenues that are projected to result from each type of audit with or without the staffing increase.

- In subsequent years' budget documents, the FTB should compare these projections to actual hours and revenues by type of audit.

- If the FTB intends to request funding for auditors to generate additional revenue, it should use these resources to supplement, rather than supplant, the auditors it has in the field. However, if the FTB later determines the resources can produce a greater benefit in support functions, it should report this to the Legislature.

- The FTB should continue to monitor changes in audit revenues resulting from fewer IRS leads and either shift existing staff or request additional staff accordingly to maintain tax revenues.

Agency Response

The Franchise Tax Board disagrees with the methodology used by the Bureau of State Audits to analyze the revenues generated by its additional audit staff. The Board asserts that actual audit assessments should be compared to budgeted assessments to determine the benefit of increased staffing.

98114 State Personnel Board: Its Management of Disciplinary Hearings Has Improved, but Further Changes Are Necessary, March 1999

Senator Steve Peace requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the State Personnel Board (SPB) to determine whether the evidentiary hearing and appeal process conducted by the Administrative Law Judges (ALJ) and the SPB are fair and unbiased.

Background

The SPB is a neutral body responsible for administering a merit system of civil service employment within the California State Government. The SPB's authority to enforce the civil service statutes is set forth in the California Constitution. As part of this responsibility, the SPB has established administrative procedures to resolve appeals of alleged violations of civil service laws and rules governing the merit principle. Many of the SPB appeals are heard by ALJ's and certain merit appeals are heard by a Staff Hearing Officer. The SPB appeals process may involve an evidentiary hearing before an ALJ, a less formal nonevidentiary hearing before a Staff Hearing Officer, or an informal investigation, with or without a hearing. For most appeals, the SPB has six months from the filing of an appeal or 90 days from its submission, to resolve the case, and may extend this period by 45 days. SPB hearings are open to the public. A party may be represented by counsel, any other person or organization, or may represent him/herself.

Senator Peace is concerned that the SPB's evidentiary hearing and appeal process may be unfair, biased, and mismanaged. Specifically, Senator Peace reports that the Senate Budget Subcommittee #4 received allegations of unfair and biased hearing-officer and board practices; violations of open meeting laws; falsification of evidence; and cumbersome, costly, and untimely procedures.

Audit Results

While it has reduced the time to review appeals by state employees disputing disciplinary action, the SPB needs to further improve its management of the appeals process. Prompt closure of appeal cases helps the SPB ensure that it corrects any employment problems faced by state employees who have been the victims of improper discipline.

The SPB administers the system of civil service employment within California government. Its responsibilities include: enforcing civil service statutes; prescribing probationary periods and classifications for state jobs; and, reviewing disciplinary actions that state departments have taken against employees. When a Department terminates, suspends, or demotes an employee, the employee can appeal this action to the SPB. The SPB consists of a five-member board and a staff of administrative law judges, hearing officers, attorneys, and analysts. The SPB hears appeals and then confirms, reverses, or modifies the Department's action.

California law requires the SPB to resolve "evidentiary appeals," or appeals requiring the formal presentation of evidence before an administrative law judge, within 180 days after the appeals are made. The SPB has established its own time limits for completing reviews of "nonevidentiary appeals," or those cases that need only informal hearings or reviews of written documentation submitted by the disputing parties.

The SPB, on average, continues to meet the statutory time limit for reviewing evidentiary appeals; however, it does not resolve nonevidentiary appeals as promptly. Delays in processing nonevidentiary appeals occurred partly because it does not meet the intermediate deadlines established by management. Also, a growing caseload combined with staffing deficiencies has hindered appeal processing. A 16-month vacancy in a key management position also limited managers' abilities to monitor staff performance. Further, the system to track the appeals caseload is flawed because it does not regularly produce management reports needed to evaluate the progress of appeals. The system also fails to track interim deadlines, while inaccuracies limit its usefulness.

Not only does the SPB need to continue working to prevent delays in its appeals review process, but it could also increase its efficiency by further streamlining its evidentiary appeals process. It could still comply with State Law, yet reduce its work on rejection during probation appeals, and some types of evidentiary appeals. Such a reduction would allow the SPB to use its resources to resolve serious appeals in a more timely mannor. Although it has established an expedited process for reviewing minor disciplinary actions such as formal reprimands and pay reductions, the SPB limits the use of this process to appeals by employees excluded from collective bargaining. It could also reduce the work on appeals by employees terminated during their probationary periods by applying the less formal process it uses for nonevidentiary appeals. Additionally, the staff could save time by requiring that disputing parties confirm their attendance at hearings.

Both State Law and the SPB's administrative procedures provide remedies for appellants who question the SPB's handling of their cases. Employees in only three appeal cases reviewed asked to file charges against SPB employees for misconduct. Also, State Law effective January 1, 1999, protects appellants by stipulating a code of conduct for administrative law judges.

Audit Recommendations

To make certain that it reviews disciplinary cases within the time limits established by State Law and its own management, the SPB should take the following steps recommended by the Bureau of State Audits:

- Update the caseload standards it uses to monitor staff performance so that it identifies inefficiencies as soon as possible.

- Proceed with its planned acquisition and implementation of a new system for tracking cases and automating review schedules. This system should allow

management to check whether staff meets intermediate deadlines, and it should generate accurate reports that show the progress of each case.

To further streamline its appeal process, the SPB should revise its procedures in the following ways recommended by the Bureau of State Audits:

- Apply the expedited process it uses for some evidentiary cases to all employee appeals related to minor disciplinary actions.

- Use its process for nonevidentiary appeals when it evaluates appeals by employees terminated during their probationary periods.

- Direct state employees appealing terminations that occurred during probationary periods to establish merit for appeals before the SPB schedules the employees' hearings.

- Require the parties involved in disciplinary or employment disputes to confirm their attendance at hearings .

Agency Response

The State Personnel Board agrees with the recommendations and findings of the Bureau of State Audits.

98104 Health Care Payment Surveys: Providers and Payers Have Differing Views Over a Complex, Sometimes Unregulated, Health Care System, March 1999

Assemblymember Wally Knox requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit to survey physicians, health maintenance organization, and insurance companies and asses the impact on the cost of health care in California of delayed treatment authorizations and delayed payments to physicians.

Background

Health care in California encompasses various payment and delivery systems, including health care service plans like health maintenance organizations (HMOs), preferred provider organizations (PPOs), point of service plans (POS), medical groups/independent practice associations (IPAs), and many others. HMOs and other full-service health plans provide for health care service for approximately 18 million California enrollees, while specialized health plans cover over 30 million enrollees. Physicians contract on average with 15 different health plans and may also participate in the Medi-Cal and Medicare programs. According to the California Medical Board, there are over 79,000 licensed physicians in the State.

The operations of managed care organizations are regulated and administered by many government and private entities. Over 100 HMOs, other full-service plans, and specialized plans (such as dental, vision, chiropractic, and pharmacy plans) are regulated by the Department of Corporations under the Knox-Keene Health Care Service Plan Act of 1975. PPOs, which are self-funded by employers and managed by third-party administrators, are not regulated at the State level. Other PPOs are delivered by indemnity insurance companies, regulated under the California Insurance Code, and enforced by the Department of Insurance. Further, the Department of Health Services contracts with some of the health care service plans to serve Medi-Cal beneficiaries. Additionally, the Department of Industrial Relations oversees managed care organizations offering services for work-related injuries and illnesses.

The Health and Safety Code, Section 1371, establishes a time frame in which payments to physicians must be made. Specifically, a health care service plan must reimburse a claim from a physician as soon as practical, but no later than 30 to 45 days after the receipt of a valid claim. Failure to pay within the 45-day period will result in the accrual of interest on the unpaid claim at the rate of 10 percent per annum. The Department of Corporations is responsible for the administration and enforcement of this section and others, which are part of the Knox-Keene Health Care Service Plan Act of 1975.

Audit Results

In an effort to slow significant increases in costs, the health care industry in California has evolved over the last 20 years from a traditional indemnity insurance environment to managed care. Through its efforts to curb costs, managed care has generated criticism

concerning its impact on the quality of medical care, effectiveness of regulation, and financial soundness of the health care industry. Furthermore, recent bankruptcies within the health care industry have heightened these concerns. The extent of delayed payments to physicians and its effect on their practices, is the subject of this report.

The flow of payments to physicians, though once a simple and direct payment from the patient or the insurance company, can be complicated under managed care. What most consumers are unaware of is that most payments originating with a health plan pass through one or more intermediaries before reaching the physician.

To ascertain whether physicians and medical groups are experiencing difficulties receiving payments under a managed care environment, the Bureau of State Audits surveyed 1,300 physicians, 1,025 medical groups, and a cross-section of health care payers, from health maintenance organizations (HMOs) and preferred provider organizations (PPOs) to a variety of intermediaries performing administrative functions, such as independent practice associations (IPAs) and management services organizations (MSOs).

One-half of the physicians cited some delays in payments from one or more of the health care payers with whom they have experience. Overall, about 51 percent of physicians responded that HMOs, IPAs, or medical groups pay their capitation or fee-for-service claims late. Fee-for-service claims paid by IPAs were a frequently cited type of delayed payment, but late HMO capitation payments and tardy medical group reimbursements were also mentioned. Similarly, 74 percent of medical groups reported experiencing some type of delayed payment from HMOs or IPAs for either capitation or fee-for-service payments. In addition, some medical groups expressed frustration with errors in enrollment lists supporting capitation payments. In response to our query about the impact of delayed payments on their practices, 28 percent of the physicians and 38 percent of the medical groups claim that delayed payments negatively affected the fiscal aspects of their practices. However, few indicate that delays affect their patient care.

Health care payers state that capitation and fee-for-service payments are timely. However, 25 percent of both the MSOs and IPAs cited some experience with inaccurate enrollment data. In addition, the majority of medical care payers indicated that they pay uncontested claims within 45 days. Despite advances in electronic commerce, very few of the intermediaries responded that they pay claims electronically. Different entities reported varying experiences related to risk pool distributions. A risk pool is an arrangement between a health plan and an IPA or medical group in which both share the risk of the cost of designated services. MSOs and IPAs were generally satisfied with the timing of the distribution. However, nearly half of the intermediaries, including some medical groups, report contesting at least part of their risk pool distributions from HMOs and point of service plans.

Furthermore, three-quarters of medical groups claim they rarely or never receive interest on delayed payments from health plans. This is similar to the experience of MSOs. In

addition, some medical groups indicated that IPAs sometimes pay less than the contracted rate on fee-for-service claims.

The results from our surveys have implications for California's regulatory structure over its health care industry. In some areas, the industry is heavily regulated, but in others, there is little or no regulation. For example, while the State does not regulate intermediary entities, respondents to our surveys expressed concerns about delayed payments from IPAs. Also, many PPOs, which are the second most common type of health plan in California, are not subject to direct State regulation.

Moreover, some of the current statutory and regulatory controls are weakened because of the impact of intermediaries on the industry. For instance, regulations requiring prompt reimbursement of providers' claims are difficult to enforce when the payments pass through several hands before reaching the providers.

Finally, the surveys indicated that the differing perspectives communicated in the responses from providers and payers are affected by the complexity in the administration of the health care industry and that clearer communication of vital information is needed.

Audit Recommendations

The Bureau of State Audits recommends that the Legislature consider doing the following:

- Establish direct state regulation over the activities of health plans not currently regulated or monitored and replace the current, redundant oversight by health plans over health care intermediaries with centralized state regulation. As part of this regulation, consider requiring all involved entities to provide at least semiannual financial statements as well as the annual audited financial statements to a designated state regulatory department.

- Require health plans to submit to providers and intermediaries enrollment lists that are the basis for capitation payments. Thus, the data for the payment should be identical to the information on the enrollment lists.

- Reexamine the provisions of the Knox-Keene Health Care Service Plan Act of 1975 related to the limitation on health plans' administrative fees when intermediaries take on some of several administrative functions of health plans. Also, consider establishing limits on administrative fees charged by intermediaries and a system for centrally monitoring the compliance of all applicable health care entities.

97118.2 Department of Corporations' Regulation of Health Care Plans: Despite Recent Budget Increases, Improvements in Consumer Protection Are Limited, April 1999

Assemblywoman Susan Davis requested that the Joint Legislative Audit Committee conduct an audit of the Department of Corporations (DOC) administration and enforcement of Health Care Service Plan Law. Specifically, Assemblywoman Davis was concerned about the DOC's ability to adequately oversee California health maintenance organizations.

Background

The Knox-Keene Health Care Service Plan Act of 1975 (California Health and Safety Code Sections 1340, et seq.) created a comprehensive set of requirements for health care service plans (health plans), also known as health maintenance organizations or HMOs. The purpose of the act is to promote the delivery of health and medical care to the people of California who enroll in or subscribe for services rendered by a full-service health plan or a specialized health plan. A full-service health plan provides a full range of medical services; a specialized health plan provides specific services, such as vision care, dental care, or mental health care.

The act assigned the responsibility for regulating and licensing health plans to the commissioner of corporations of the DOC. To ensure that health plans provide quality medical care, the DOC performs various activities including on-site medical surveys and assisting members in resolving complaints against their health plans. According to the DOC, there are 108 active health plans licensed in California, as of March 31, 1997.

The 1997-98 proposed budget for the Health Care Program is $8.9 million, including $3.2 million in estimated salaries and wages for 63 employees in three field offices; Sacramento, San Francisco, and Los Angeles.

Audit Results

Despite receiving a $6.5 million budget increase in August 1997 to enhance its regulation of health care service plans (health plans), the Department of Corporation has shown only limited improvements in its efforts to protect health plan enrollees from inadequate medical care. The audit revealed that, during fiscal year 1997-98 and the first half of fiscal year 1998-99, the DOC failed to produce appropriate reports and to promptly resolve promptly enrollee complaints against their health plans. Furthermore, evidence from the review suggests that the lack of competent leadership during these periods contributed significantly to the poor performance in the DOC's Health Plan Division (division), which is largely responsible for ensuring that health plans comply with the Knox-Keene Health Care Service Plan Act of 1975. This Act includes laws designed to ensure the provision of adequate health care by financially sound health plans. Further, the audit disclosed that the DOC's Health Plan Program (program) did not spend millions of dollars in its budgets for fiscal years 1996-97 and 1997-98 partly because the program

did not meet intended staffing and performance levels. Because health plan fees comprise a substantial part of the revenues the DOC collects to cover the costs of regulating health plans, these budget surpluses indicate that health plans paid more fees than necessary for their regulation.

During the period we reviewed, the DOC's complaint and enforcement functions have shown improved performance in their work to protect health plan enrollees. However, during fiscal year 1997-98 and the first half of 1998-99, the medical survey and financial examination functions continue to have backlogs in the reports they publish covering the DOC's reviews of health plans. The medical survey function protects consumers from inadequate health care resulting from health plan violations of the Knox-Keene Act. Through the financial examination function, consumers avoid disruptions in health care caused by financially troubled health plans. Weaknesses identified include the division's failure to complete by the mandated deadline nearly half of all required medical surveys. Also, at the time the Bureau of State Audits conducted the audit, the division had a modest backlog of six follow-up financial examinations it had not yet conducted. Further, as of March 5, 1999, more than 200 complaints from enrollees were still open even though the DOC had exceeded the statutory 60-day deadline for resolving such complaints.

Various conditions at the DOC illustrate that a shortage of adequate leadership is at the core of the division's shortcomings. These conditions include the lack of a position to manage one major function, a vacant managerial position for another function, the division's inconsistent reviews of existing policies and procedures for all major functions to evaluate whether changes would improve effectiveness, high vacancy rates for some positions, poor workload estimates, and such other factors as weak administrative controls. Without the necessary focus, direction, and vision provided by qualified leadership, the DOC cannot ensure that health plan enrollees receive the level of protection expected by law.

Not only is the DOC failing to fully protect health plan enrollees, but also health plans have paid more for the cost of their regulation than the DOC actually spent. Specifically, the Bureau of State Audits observed that the program had not spent large portions of its budget by the end of fiscal years 1996-97 and 1997-98, and this fact had repercussions for health plans. The program includes the division and a position in the DOC's other divisions whose work relates directly to health plans. For these two fiscal years, the program's ending balances exceeded desired levels by $2.6 million and $5.9 million, respectively. Because the DOC's primary source of revenue for health plan regulation is the fees it charges health plans, year-end balances higher than desired indicate that health plans have paid more than necessary for the costs of the program's operations. According to the DOC, its year-end balances were too high for several reasons, including an underestimation of revenues and an overestimation of expenditures for the program.

Audit Recommendations

During the audit of the DOC's performance since it received its budget increase, the Bureau of State Audits encountered issues leading them to conclusions similar to those reported in an earlier audit. In an earlier audit they compared the DOC's responsibilities with those of other State entities to determine whether one or more of the other entities could administer and enforce the Knox-Keene Act. Therefore, it seems appropriate to reiterate for legislative consideration the following recommendation that appears in our 1998 report: The Legislature should move the division's responsibilities for regulating health plans from the Business, Transportation and Housing Agency and the DOC of Corporations. If the Legislature determines that no appropriate agency or DOC currently exists within the State's organizational structure, the Legislature should create a new agency or DOC in which to place these responsibilities.

In addition to repeating this recommendation, the Bureau of State Audits recommends that the State's Governor help correct the concerns identified in this report. Specifically, the administration should promptly appoint to leadership positions within the DOC qualified individuals who will provide the necessary direction, focus, and vision. The Bureau of State Audits recommends that the team of experts assembled at the direction of the Governor consider our findings and recommendations when preparing its options "for more effective regulation of the managed care industry."

Further, the DOC should take the following steps to ensure that health plan enrollees receive adequate care:

- Fill the vacant leadership position within the medical survey. The DOC should also promptly create and fill a leadership position for the financial examination function.

- Examine in depth and revise as necessary the policies and procedures used by staff of the medical survey and financial examination functions.

- Assess and revise as necessary the DOC's workload estimates for the medical survey, financial examination, and complaint resolution functions and adjust its budget accordingly. Also, the DOC should promptly fill those positions necessary for providing consumer protection.

- Establish sound administrative controls, including the development and implementation of adequate workload tracking systems, to ensure the DOC's compliance with applicable laws concerning the issuing of reports for routine medical surveys.

Finally, to ensure that health plans do not pay more than necessary for the DOC's costs to regulate the plans, the DOC should develop and use more accurate estimates of its resources and expenditures.

Agency Response

The Business, Transportation, and Housing Agency agreed that operational problems exist within the DOC's Health Plan Division. The agency states that the backlogs for the medical survey and complaint functions are unacceptable. It has instructed the DOC to aggressively manage the workload and to redirect resources to eliminate the backlogs. The agency has also directed the DOC to make filling the critical positions a top priority.

98115 California Science Center: The State Has Relinquished Control to the Foundation and Poorly Protected Its Interests, April 1999

Senators Diane Watson, Steve Peace, and Richard Polanco requested that the Joint Legislative Audit Committee direct the State Auditor to conduct a comprehensive performance personnel audit of the California Science Center to determine whether the State's investment and interests are protected.

Background

The California Science Center (science center), formerly known as the California Museum of Science and Industry, is an educational, scientific, and technological center and is administered by a nine-member board of directors appointed by the Governor. It was created to stimulate the interest of Californians in science, industry, and economics. The science center is located in Exposition Park; a tract of land owned by the State and it exhibits and conducts programs in a number of State-owned buildings.

The science center's activities are financed mostly by the State's General Fund and the California Museum Foundation Fund. The California Museum Foundation (Foundation) is a nonprofit corporation established to solicit funds for acquiring and maintaining exhibits, and assisting in the science center's educational activities.

The Senators are concerned that the relationship of the science center and the foundation has changed and may no longer be in the best interest of the State. They believe that the foundation's role in the daily operations and management of the science center has increased, while the State's has decreased.

Audit Results

In early 1998, the new California Science Center opened to the public. Formerly known as the California Museum of Science and Industry (CMSI), the science center is now a new state-of-the-art science museum. Its primary purpose is to stimulate Californians' interest in science, industry, and economics.

The science center is located in Exposition Park (park), just south of downtown Los Angeles. The park is perhaps best known as the host site of the 1984 Olympics. The State owns most of the land within the park but leases much of it to the city and county of Los Angeles and the Coliseum Commission to operate other museums and sports venues.

The California Science Center Foundation (foundation) is an auxiliary organization whose primary purpose is to support the science center through fund raising for science exhibits and educational programs. Since 1992, the foundation has actively raised funds for the new science center and contributed $15.9 million for its exhibits and $19.6 million for educational programs.

In its attempt to utilize a public-private partnership, the State has essentially relinquished governance of the science center to its foundation. While the State has historically controlled science center policy, management, and operations, these functions are now primarily under foundation direction. This is evidenced by the composition of the executive director's management team: six of seven management positions are partially or fully affiliated with the foundation. In addition, the one position compensated fully by the State is currently vacant, and the science center management has made only minimal efforts to fill it.

In 1998, the executive director stated that the foundation has contributed more funds as State funding was reduced, and those who raise funds want input and consultation regarding management of the science center. However, the Bureau of State Audits determined that although the foundation has contributed to enhancing the science center, the State has always been the science center's primary source of support: Public funds have paid the majority of the science center's capital improvements as well as for its programs.

Because the executive director and two deputies serve both the State and the foundation, they may be faced with competing interests. While the new science center and its educational programs are a significant improvement over the former CMSI, state-appointed executives are not properly protecting the State's interests in the science center and the park. Decisions these executives made or actions they took demonstrate their failure to adequately protect the State's significant investment in the science center and further confirms the State's weakened position. Moreover, many of these decisions appear to favor the foundation's interests, which exemplifies our concerns. Specifically, the science center's management failed to protect the State's interest when it:

- Allowed the State to pay more than $1 million for exhibit maintenance despite the foundation's contractual obligations to maintain its own assets.

- Permitted the foundation to utilize about $128,000 in net profit to support its operations even though this profit is contractually restricted to improving science center exhibits and education programs.

- Failed to ensure that the State was reimbursed for expenses it incurred when the foundation rented out the Loker Conference Center and other parts of the science center for special events.

- Permitted the foundation to charge fees for certain exhibits that are operated and maintained by the State while retaining all such exhibit fees to support foundation operations.

Finally, the science center's management also failed to conduct the State's business in a fiscally responsible and legal manner. In particular, the Bureau of State Audits determined that the science center did not properly manage the State's business when it:

- ❖ Compensated some employees for hours they did not work.

- ❖ Violated state contracting procedures and circumvented state controls in administering contracts.

- ❖ Allowed a food service vendor to operate on its premises without a contract for more than a year.

- ❖ Has had two valid enforceable contracts for parking operations since 1990-yet parking revenues are just under $2 million annually-and has not employed reasonable methods to verify that the State is receiving all of the parking revenues to which it is entitled and may have no recourse for recouping the lost revenue.

Audit Recommendations

Because the State has a substantial investment in the science center and continues to provide its primary support, the Legislature should re-examine the California Government Code, Section 18000.5 and determine whether allowing state employees to render services to a nonprofit corporation for additional compensation continues to serve the State's best interest.

In its attempt to use a public-private partnership to enhance the science center, the State has essentially relinquished governance to the foundation. The State needs to regain management control of the science center so that the State's interests are better protected. Therefore, the State and Consumer Services Agency (agency) should take the following actions:

- ❖ Ensure that science center management utilizes civil servants in management positions to guarantee that the State occupies positions of authority to set policy.

- ❖ Consider restructuring the reporting responsibilities of management at the science center so that the deputy director of administration reports directly to an individual at the agency.

- ❖ Make sure that the foundation fully discloses to the Department of Personnel Administration the compensation it intends to provide to science center employees, including all perquisites such as car allowances, and club memberships, and reports this information annually to the Office of the State Controller.

Science center administrators need to properly protect the State's interests in the science center, particularly in its relationship with the foundation. To regain control of its resources, the science center should review and enforce all agreements with its foundation. Specifically, the science center should take the following actions:

- Require the foundation to pay costs of exhibit maintenance.

- Require the foundation to retain the proceeds from its gift center and Loker Conference Center operations in restricted funds and limit the use of net revenue from these operations for science center exhibits and educational programs.

- Immediately prepare Memorandums of Understanding (MOUs) for all exhibits currently housed in the science center and develop procedures to ensure that it prepares MOUs for any future exhibits displayed at the science center.

- Promptly bill and collect from the foundation amounts owed to the State.

- Submit current and future agreements that it has with the foundation to a designated individual at the agency for review and approval of terms and conditions in those agreements. The designated individual at the agency should ensure that provisions in any and all agreements are in the State's best interest.

To ensure that science center employees who receive compensation from the State and the foundation mitigate conflicts of interests in the future, these executives should review the relevant laws and regulations and abide by them in their dealings with the foundation and otherwise.

The science center should take immediate steps to obtain valid, enforceable contracts for its food service and parking operations. As such, the science center should do the following:

- Submit the proposed contract for food service operations to a designated individual at the agency for review and approval.

- Continue its negotiations with the food service operator and submit the proposed contract to the Department of General Services for review and approval.

- Immediately prepare the necessary documents to advertise and solicit bids from potential parking lot operators.

- It should also submit future contracts to the agency for review and approval and work with the Department of General Services to ensure that it completes valid and enforceable contracts.

The Legislature should review the structure of; and the relationships among, the science center's state board, the foundation's board of trustees, and the Coliseum Commission and

determine whether membership on more than one board or commission potentially compromises a state board members' ability to protect the State's interests.

The Governor should promptly appoint two new members to the science center's state board to replace the members' whose terms expired on January 15, 1999.

Agency Response

While acknowledging the contributions of the public-private partnership, the agency agreed with the concerns set forth in the audit and has pledged to work with both the science center and the foundation to address each recommendation. In addition, the science center recognized that the audit raised many issues it needs to address. Although the science center does not agree with each and every finding, in its response, the science center outlined steps it has begun taking to implement many of the recommendations.

98117 Department of Health Services: Has Made Little Progress in Protecting California's Children From Lead Poisoning, April 1999

Assemblymember Mike Honda requested that the Joint Legislative Audit Committee direct the State Auditor to conduct a performance audit of the Department of Health Services' Childhood Lead Poisoning Prevention Branch. Of specific concern was that the Department was not achieving its goal of eliminating childhood lead poisoning.

Background

The Department of Health Services (DHS) administers a variety of programs to accomplish its mission of protecting and improving the health of California residents. The DHS's efforts include programs for preventing disease and premature death including those resulting from lead poisoning. The Childhood Lead Poisoning Prevention Branch administers the DHS's lead poisoning prevention services for children with a budget of $9.5 million.

Assemblymember Honda has been informed that while the Legislature has continued to fund this program through general fund moneys, the DHS has only identified a small number of lead poisoned children and that many children remain untested and untreated. Further, Assemblymember Honda is concerned that the program is not eliminating childhood lead poisoning as was intended when the program was established.

Audit Results

When children under the age of six years are exposed to lead, a highly toxic metal, the consequences can be very serious. Childhood lead poisoning can interfere with the development of the brain, organs, and nervous system; even relatively small amounts of lead in blood can result in learning disabilities, behavior problems, and lower IQ scores. The United States Centers for Disease Control and Prevention (CDC) considers lead poisoning to be a major, preventable environmental health problem for children. Although nationwide blood-lead levels have been declining in recent years, many children throughout the country still suffer from this problem.

For over a decade, California has struggled to identify and protect these lead poisoned children. As early as 1986, the Legislature charged the DHS of Health Services with determining the extent of lead poisoning among children in the State. Moreover, in 1991 the Legislature set specific goals for protecting children from lead poisoning: It asked the DHS to evaluate all children for their risk of poisoning; to test those children who were at risk; and to provide case management for children who were found to suffer from lead poisoning. Yet, the DHS has failed to meet these goals. It has not ensured that all at-risk children are tested, nor has it tracked the results of testing to determine the extent of the problem lead poisoning presents throughout the State.

As a result, thousands of lead poisoned children have been allowed to suffer needlessly. The DHS estimates that more than 130,000 children between the ages of one and five

years have elevated blood-lead levels, with 40,000 having levels that would warrant case management. Yet, as of January 1999, the DHS reported that it was providing case management to a mere 3,500 children the only lead poisoned children it had identified as requiring these services. Thus, the DHS is clearly not fulfilling its responsibilities as mandated by the Legislature.

Specifically, despite a legislative directive, the DHS has failed to adopt regulations establishing a standard of care requiring health care providers to evaluate all children to determine their risk of lead poisoning during periodic health assessments. In addition, the DHS did not follow initial Federal guidance on the appropriate approach to blood-lead testing. Moreover, it has not ensured that the health care providers who participate in its Medi-Cal and Child Health and Disability Prevention (CHDP) programs and provide services to about 70 percent of the State's one- and two-year-old children order blood-lead tests in accordance with program requirements. Thus far, the DHS's records indicate that less than 25 percent of the children in this age group who access services from these programs have received blood-lead tests.

The DHS has yet to develop a reporting system that tracks the results of all blood-lead tests, despite a 1991 legal settlement requiring it to do so. As a result, the DHS is unable to report accurately on where and to what extent lead poisoning exists in the State. Furthermore, this lack of adequate tracking has hampered the DHS's ability to ensure that children suffering from lead poisoning receive appropriate care. Because the DHS requires labs to report only those blood-lead test results that exceed 25 micrograms of lead per deciliter (ug/dL) of human blood, it cannot ensure that it receives blood-lead results at the lower level of 15 ug/dL. Yet, children who have blood-lead levels as low as 15 ug/dL require case management.

In addition, the DHS has not appropriately monitored the case management of those lead poisoned children whom it has identified. This case management, primarily handled by city and county lead poisoning prevention programs (local programs), consists of follow-up medical care for the children and investigation of the sources of the lead poisoning. Although, the DHS requires the local programs to report all their case management activities, it does not enforce this requirement. Consequently, many case management reports are never submitted. Moreover, when the DHS does receive these reports, it does not review the information contained within them to determine if the care given to a child was appropriate, and if the source of the poisoning was eliminated or reduced. Fortunately, we found in our review of selected cases, that local programs have provided adequate care. However, in a number of instances, the local programs were unable to ensure that the source of the poisoning was eliminated or reduced because they require assistance in their efforts to compel property owners to do so.

The DHS has made progress towards protecting children from lead hazards. For instance, it has established a program aimed at reducing lead exposure caused by unsafe renovations or removal of lead-based paint, and it has also conducted a study of school and daycare facilities throughout the State to determine the prevalence of lead hazards. Yet, in both of these examples, the DHS must take immediate further action to achieve

the best possible results. Although, the program aimed at reducing lead exposure has qualified the State and local agencies for federal funding, these funds are currently threatened because the DHS has not demonstrated that it has dedicated adequate funding and staff to enforce the program. Similarly, until the DHS completes a curriculum to educate school and daycare facility staff on appropriate steps to eliminate or reduce lead hazards, the children at these facilities remain at risk for lead poisoning.

The DHS has many tasks ahead of it to identify and protect children with lead poisoning. For this reason, it must organize its efforts and move into a higher gear to fulfill its responsibilities to the Legislature and the children of California. If it does not, thousands of children remain vulnerable to the serious effects of lead poisoning.

Audit Recommendations

To ensure that the DHS properly focuses its efforts and resources to identify and protect children with lead poisoning, the Legislature should require the DHS to report on its progress annually. Additionally, the Legislature should amend existing state law to require labs to report the results of all blood-lead tests. Finally, the Legislature should grant California's cities and counties the authority to compel property owners to eliminate or reduce lead hazards.

To obtain adequate data on where and to what extent lead poisoning is a problem in the State and to ensure that it identifies and protects lead poisoned children, the DHS should take the following actions:

- Adopt regulations requiring labs to report all blood-lead test results.
- Adopt standard-of-care regulations as previously directed by the Legislature.
- Take immediate action to identify and educate those providers participating in its Medi-Cal and CHDP programs who are not ordering blood-lead tests as required.
- Ensure local programs submit to the DHS all case management information outlining the services provided to lead poisoned children.
- Monitor local programs' activities to ensure lead poisoned children receive appropriate care. This should entail a high-level review of all follow-up reports to ensure their completeness and a more detailed assessment of the care given for a representative sample of cases.
- Ensure that homeowners and property owners properly eliminate or reduce lead hazards identified as a source of a child's lead poisoning by assisting the local programs with issuing orders to control these hazards if the Legislature does not grant this specific authority to them.

- ❖ Seek legislation granting the DHS enforcement authority that will allow it to impose administrative, civil, and criminal sanctions against those who violate state requirements governing activities to eliminate or reduce lead hazards.

- ❖ Complete the training curriculum for eliminating or reducing lead hazards in California's school and daycare facilities so that children do not remain at risk for lead poisoning.

Agency Response

The DHS of Health Services concurs, for the most part, that the Bureau of State Audits recommendations would improve California's Childhood Lead Poisoning Prevention Program. However, the DHS does not agree that it should report on its progress annually to the Legislature, believing that this would add work but no benefit to the program. Additionally, the DHS does not believe that it should adopt standard-of-care regulations as directed by the Legislature in 1991. Instead, the DHS recommends that the Legislature repeal this mandate. Finally, it does not agree that the DHS should assist the local programs with issuing lead hazard abatement orders if the Legislature does not grant this specific authority to cities and counties.

98124 Perkins Vocational Education Program: The State's Use of Funds to Administer Other Programs Reduced Its Ability to Provide Effective Administration and Leadership, May 1999

Senator Richard Rainey requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit to determine whether the California Department of Education (DOE) is complying with its duties and provisions of the federal Carl D. Perkins Vocational and Applied Technology Act (PL 101-392). Of specific concern is the examining of expenditures and activities in the vocational education program before and after the DOE's reorganization.

Background

The State of California receives funding for vocational education programs from the federal government under the Carl D. Perkins Vocational and Applied Technology Act Perkins Act. The California Department of Education (DOE) and the Chancellor's Office of California Community Colleges use the funds to develop and expand the academic and vocational skills of students in grades K-12 and at the community colleges.

During fiscal year 1996-97, the State received $113 million in vocational education funds, of which the DOE received approximately 58 percent. Federal regulations require the State to submit a Vocational Education State Plan (state plan) that outlines the objectives and activities of its vocational education programs. The DOE acts as the lead and is responsible for preparing the state plan and submitting the application for funds to the United States Department of Education.

Senator Rainey is concerned about the services the DOE is providing with the federal funds from the Perkins Act and with types and amounts of administrative expenses used in connection with these federal funds. Further, Senator Rainey is interested in the effect the DOE's recent reorganization had on the types of services provided and administrative expenses incurred.

Audit Results

The Federal Government passed the Carl D. Perkins Vocational and Applied Technology Education Perkins Act amendments of 1990 to increase citizens' abilities to compete in today's technologically advanced global society. The funding the State is receiving increased over the past five years, amounting to $119 million in fiscal year 1998-99. However, the DOE and the Chancellor's Office of the California Community Colleges used some Perkins funds to administer other federal and state programs that are similar to the Perkins program. At the same time, the DOE, since reorganizing its Perkins Act function in 1995, reduced the number of staff working on the Perkins Act program in its Secondary Education Division, which administers the majority of the program. As a result, it diminished services to school districts providing vocational education programs. Some of the school districts we surveyed, including the State's largest, raised concerns about the DOE's services under the Perkins Act. One district stated that it felt the DOE's

reorganization left a leadership void. A recent task force on industrial and technology education also raised concerns, citing a lack of support from both the Legislature and the DOE as a cause for the deficiencies it noted.

The Chancellor's Office also spent Perkins Act funds on a state program. Since August 1997, when it created a separate unit to administer the Economic Development Program, the Chancellor's Office spent more than $500,000 in Perkins funds to finance staff who administer the program. These funds could have been used by community colleges to provide additional Perkins Act vocational education services.

Federal guidelines do not appear to allow the State to use Perkins Act funds to administer other programs; therefore, it may have to repay the money. More importantly, the DOE and the Chancellor's Office have not maximized the effectiveness or availability of Perkins Act vocational education services at the local level. As a result, students who rely on Perkins Act funding to acquire vocational skills that will translate into careers in today's high technology society may be inadequately prepared for the marketplace.

Audit Recommendations

To ensure that the State meets federal requirements, the DOE and the Chancellor's Office should either discontinue using Perkins Act funds, including state matching funds, to administer other federal and state programs or obtain approval from the federal government to do so.

The DOE should ensure that it maximizes the use of Perkins Act funding to effectively administer and provide state leadership. It should also evaluate all areas in which its services to the Perkins Act program have diminished and ensure that it furnishes the appropriate level of service.

The DOE should reexamine its structure in light of the results of the statewide needs assessment to be conducted under the 1998 Perkins Act and ensure that it is organized in a way to fully address the State's needs.

Agency Response

The California DOE of Education disagrees with the report's conclusions for several reasons and contends that the conclusions are inconsistent with the current direction of the federal vocational education program and its approved Vocational Education State Plan for using Perkins Act funding.

The Chancellor's Office of the California Community Colleges plans to investigate further its options to address our recommendation regarding its use of Perkins funding.

99117.1 Public Utilities Commission: Did Not Effectively Manage Its Contract for Investigating San Francisco's December 1998 Power Failure, May 1999

Senator Steve Peace requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the contracting activities of the California Public Utilities Commission. Specifically, Senator Peace is concerned about irregularities with the Commission's contracting activities.

Background

The five-member commission regulates the rates and services of utility and transportation companies in California that are privately owned and operated. Specifically, it regulates about 3,300 transportation companies and 1,264 telecommunications, energy, and water utilities. The investor-owned utilities it regulates includes natural gas, electric, water, steam, sewer, pipeline, and local telephone companies.

In the course of fulfilling its responsibilities, the commission may determine that it needs to enter into contracts for goods or services.

Audit Results

In contracting with a consultant to investigate the massive power failure that struck the San Francisco Bay Area on December 8, 1998, the California Public Utilities Commission inadequately monitored its consultant's contract and failed to ensure that the consultant's expenditures were reasonable and remained within budgeted amounts. The electrical power outage, caused by a system disturbance at a Pacific Gas and Electric Company (PG & E) substation, left more than one million people in the San Francisco Bay Area without electricity for up to 7.5 hours. Because it did not have adequate technical expertise to explore the causes of the outage and to recommend methods for preventing a recurrence, the Commission awarded a $400,000 contract to an outside consulting firm that would conduct the investigation. The contract required the consultant to draw expert conclusions and prepare a report suitable for litigation purposes related to the power failure.

Even though contracting with the consultant is reasonable; the Commission is unable to demonstrate that it evaluated the qualifications of the consultant's subcontractors. The commission also did not make certain that the consultant's report contained sufficient detail and analysis to support all of the report's conclusions. For example, the report invited criticism because it concludes that "PG & E has an error prone work culture that tends to bypass procedures and work practice requirements." However, the report does not specify the methodology or detailed analysis that the consultant used to arrive at this conclusion. The commission has agreed to pay an additional amount so that the consultant, who should have submitted a complete analysis, can provide further support

for the report's conclusions. Additionally, the Commission based the contract amount on broad estimates that it cannot substantiate, and it has not required the consultant to submit invoices. At this time the Commission can not ensure that expenditures for the investigation have been appropriate and within the contract's budgeted amounts.

99102 Department of Health Services: Despite Shortcomings in the Department's Monitoring Efforts, Limited Data Suggest Its Two-Plan Model Does Not Adversely Affect Quality of and Access to Health Care, July 1999

Chairman Scott Wildman requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the Medi-Cal Managed Care Two-Plan Model, as implemented in twelve counties around California. Specifically, the audit was to examine the impact, cost effectiveness, and the quality of care of the Two-Plan Model.

Background

January 1996, the Health Care Financing Administration approved California's Medi-Cal Managed Care Two-Plan Model (two-plan model) to expand Medicaid managed care into 12 counties. Medicaid beneficiaries in these 12 counties are offered a choice of two managed care plans. One is a "mainstream plan," offered by a commercial health plan selected by the State. The other one is a "local initiative plan," which includes existing county hospitals and health care facilities, as well as other local providers. The purpose of the two-plan model is to improve access and provide a full range of medical services while containing costs.

During calendar year 1996, two counties implemented the two-plan model with initial dates of operation during the year: Alameda and Kern counties. In 1997, the other ten counties had the two-plan model in place with initial dates of operation by the end of the calendar year. These ten counties are Contra Costa, Fresno, Los Angeles, Riverside, San Bernardino, San Francisco, San Juaquin, Santa Clara, Stanislaus, and Tulare.

Although contractors provide the Medi-Cal services to eligible beneficiaries in two-plan counties, the Department of Health Services (DHS) contracts with the providers and is responsible for monitoring the Medi-Cal program. The DHS requires contractors to submit information to it periodically regarding the contractor's financial viability, services provided, enrollment reports, and provider network. The DHS also performs onsite reviews and annual medical audits of its contractors to ensure continued compliance.

Audit Results

The DHS has shown deficiencies in its monitoring of health plans that contract with the California Medical Assistance Program (Medi-Cal), and these shortcomings could potentially undermine the California's delivery of medical services to the financially needy. Nonetheless, limited data indicate that the DHS's recently developed model for managed care gives Medi-Cal beneficiaries adequate access to quality health care. Under the Medi-Cal Managed Care Two-Plan Model; each participating county offers beneficiaries a choice between a health plan operated by a local entity and one operated by a commercial health maintenance organization. Both types of plans pay for and manage all medically necessary services for their beneficiaries while the DHS compensates the plans according to a predetermined fixed rate.

Current statistics from one health plan, as well as our own observations of five health plans that administer Medi-Cal managed care, suggest that managed care in general, offers benefits that fee-for-service systems do not necessarily provide, especially in the area of preventive care. However, data the health plans submitted to the DHS are insufficient to evaluate the overall quality of health care furnished to beneficiaries in counties with the two-plan model. The data, which includes information on services, providers, and beneficiaries, are problematic because the DHS has not validated them. The DHS has also faced difficulties in obtaining the data because providers lack incentives for supplying detailed information to the health plans. The providers receive a fixed fee for their services regardless of what services they actually provided. Further, the DHS inadvertently discourages health plans from supplying information by requiring them to use two separate forms to report services furnished under two different programs that cover children's medical care. To facilitate its collection of data on medical services, the DHS recently began to withhold a portion of the health plans' monthly payments until the plans meet reporting goals. The DHS is also taking other steps to measure the plans' quality of care.

In addition, to its difficulties in acquiring necessary data, the DHS's efforts to monitor health plans have been incomplete and poorly organized. Even though it designed a comprehensive system for overseeing health plans, the DHS does not supply staff members with specific guidelines to direct their monitoring activities, track the status of documents used for monitoring, or summarize in a formal document the results of its efforts to evaluate plans' compliance with Medi-Cal requirements. These gaps in the DHS's procedures have contributed to its failures to analyze adequately whether health plans have enough primary care physicians and specialists who can serve beneficiaries, meet its goal for visiting health plan sites regularly, review promptly health plans' propose corrective actions to address weaknesses the DHS identified in its audits, and inform its monitoring staff about trends in complaints against the health plans. Finally, the DHS's audits may be less effective because the DHS did not coordinate efforts among its staff. Such inefficiencies within the DHS could delay or even prevent the delivery of quality medical services to those who most need the State's assistance for health care.

Audit Recommendations

To obtain complete, reliable data for measuring the success of the Medi-Cal Managed Care Two-Plan Model, the DHS should do the following:

- Validate the accuracy of data received from the health plans that provide care to Counties that participate in the two-plan model.

- Periodically assess the effectiveness of its withholding provision and whether this provision encourages an increase in reporting of data by health plans. If necessary, the DHS should modify the provision or impose sanctions to further encourage the prompt submission of reliable data on services, providers, and beneficiaries.

- ❖ Address the inefficiencies caused by its existing practice of requiring health plans to complete two different forms that use different coding systems for Children's Health and Disability Prevention program services and for Medi-Cal services.

In addition, the DHS should continue to promote quality improvement among the health plans through its various reviews and develop new approaches to address emerging health care issues.

To ensure that it adequately monitors health plans that provide care under Medi-Cal managed care; the DHS should take these steps:

- ❖ Implement formal guidelines for monitoring that describe the DHS's expectations for various tasks, such as evaluations of the existing provider networks for health plans, site reviews of health plans, and the communication of trends pertaining to grievances.

- ❖ Develop a tracking tool that will better enable its contract managers to assess whether the health plans have submitted all reports required by the DHS and whether the DHS's staff has promptly reviewed the reports.

- ❖ Require its contract managers to prepare written documentation describing their monitoring efforts.

- ❖ Maintain an ongoing record for each health plan that encapsulates the results of the DHS's overall monitoring efforts and also the corrective actions not yet taken by the plan.

- ❖ Coordinate efforts between its managed-care division and its audits and investigations program to ensure consensus on roles in performing audits of the health plans. At the same time, both sides should continue efforts to resolve differences in their perspectives on the audits to ensure that these reviews directly address the expectations of the managed-care division.

Agency Response

The DHS agrees with the audit findings and recommendations and has committed to specific improvements of its monitoring of the health plans.

99103 Child Support Enforcement Program: Without Stronger Leadership, California's Child Support Program Will Continue to Struggle, August 1999

Assemblymember Dion Aroner requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the child support enforcement system. Specifically, the audit was to determine whether the system was failing and to offer possible methods of improvement.

Background

Provisions of the Federal Social Security Act, and the California Welfare and Institutions Code authorize State and County governments to establish a child support enforcement program. The State's Department of Social Services administers the child support enforcement program in California. The purpose of this program is to increase collections from absent parents and to reduce Federal, State, and Local welfare expenditures. To fulfill its purpose, the child support enforcement program provides a variety of services to custodial parents, including; locating absent parents, establishing paternity, obtaining and enforcing child support orders, and collecting and disbursing child support payments.

Through their family support divisions, the district attorneys' offices in the 58 counties provide the day-to-day services of California's child support enforcement program. In addition, state agencies provide information to assist counties in locating absent parents and by intercepting income to pay child support owed.

In May 1997, a Little Hoover Commission report raised concerns that the new automated child support enforcement program network was barely functioning. Thereby increasing the chances that children are not receiving the financial support they deserve. Further, in March 1998, the California State Auditor issued a report describing how a cascade of events and poor project management decisions lead to the failure of the Statewide Automated Child Support System and cost the State over $111 million.

Audit Results

The Child Support Enforcement Program (CSEP) in California is disjointed, complicated, and lacking in leadership. Although, no single entity is wholly responsible for the program's failures, state, county, and federal CSEP administrators have all contributed to its often inadequate performance.

As the designated statewide supervisor of California's CSEP, the Department of Social Services (DSS) is responsible for providing leadership, assistance, and direction to the county district attorneys who administer the program locally. Yet, DSS has consistently failed in this role. Not only does the program currently limp along under a failed statewide automated system, but many counties that are struggling to collect child support have not received technical assistance. Rather than monitoring and providing guidance to these counties, DSS has instead focused its attention on administrative

processes, reviewing the counties only to ensure that they are complying with certain federal regulations. Moreover, in its role of statewide supervisor, DSS has seen itself simply as a conduit of federal data and only a reporter of information. As a result of this laissez-faire attitude, the State's CSEP lacks any sense of overarching vision.

By not providing more leadership and guidance, DSS has allowed county district attorneys broad discretion in operating their child support programs. As a result, some counties have implemented innovative processes and have dedicated considerable resources to their programs; while others have become backlogged and have failed to deliver even basic services to local families. Simply based on where they live in California, one noncustodial parent may be prosecuted, while another is educated about his or her responsibilities and assisted in fulfilling them. This disparate delivery of services is unfair to the families who rely on the CSEP.

To exacerbate these problems further, the federal government has contributed to the program's dysfunction by offering incentives that may motivate misguided efforts. For example, the current federal incentive structure does not consider certain demographic factors that can affect a State's CSEP performance. Therefore, States like California may be penalized because of factors like high unemployment. Additionally, even though the focus of the national program has changed in recent years, the incentive structure only partially reflects these changes and may send the wrong message to the States.

Because critics of California's CSEP often fail to take into account demographics that influence its performance, we considered such factors in our analysis of the State's performance. Yet, even when one accounts for California's demographic disadvantage in comparison to many other States, it is still clear that California CSEP is not only ineffective but, in fact, is floundering. With recent welfare reform causing more and more families to rely on child support, California's failure to improve its CSEP is directly affecting the lives of children.

Finally, superficial comparisons of California's performance against other States should not be performed without considering that child support programs differ among the States. These comparisons often do not consider that California's program is designed to exclude child support cases in which the parents do not dispute the amount of child support, unlike some States. Further, the comparisons often do not account for data submitted by States to the federal government that is neither timely nor reliable. Demographics also play a key role in analyzing the performance of California's child support program, particularly the proportion of Aid to Families with Dependent Children recipients in the caseload. Adjusting for these factors and compared with States that are true peers, the Bureau of State Audits found that California's performance has improved over the past four years.

Wherever the governor and Legislature ultimately place the responsibility for California's CSEP, they should appoint to leadership positions only qualified individuals capable of providing the authority, motivation, direction, and effective oversight needed to significantly improve the program.

To improve the effectiveness of the CSEP, DSS needs to show stronger leadership by developing a strategic plan that has meaningful goals and performance measures, fully implementing its new programs and initiative, reviewing county operations to provide technical assistance to poor performers, ensuring that it collects and reports accurate data, and communicating program policy to counties in a clear and timely fashion.

To ensure that California residents participating in the CSEP are treated equally and receive the same level of service from county to county, DSS should exercise its authority over county-run programs to achieve uniform delivery of child support services at the local level. In addition, DSS should study the best practices of county-run child support programs, including those identified from the eight counties visited by the Bureau of State Audits, and then consider the merit of implementing these practices statewide.

Finally, the California Legislature should monitor the federal government's efforts to improve its incentive structure to ensure that such modifications match the current direction of the federal child support enforcement program, take into account demographic factors in determining a State's performance, and memorialize Congress if changes are needed.

Agency Response

The Department of Social Services generally concurred with the conclusions and recommendations and, in particular, echoed the sentiment for the need of stronger state leadership. Kern and San Mateo counties also generally concurred with the conclusions and offered clarifying information. Los Angeles, Sacramento, and Yuba counties took exception to the conclusion of the Bureau of State Audits, that they displayed an enforcement philosophy and provided examples of activities they believe assist clients. Finally, three counties, Glenn, Placer, and San Diego chose not to respond to the audit.

99107 School Safety: Comprehensive Resolution Programs Help Prepare Schools for Conflict, August 1999

Senator Richard Alarcon requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit examining the processes school districts use to handle and resolve conflicts that arise between parents and school officials. The audit was to include a broad review of conflict resolution processes used in schools.

Background

California has a large public school system that serves more than 4 million students in kindergarten through grade twelve (K-12). The K-12 education system is administered by the State Department of Education (DOE), 58 county offices of education, and nearly 1,100 school districts.

The K-12 education system is administered at the state level by the DOE, under the leadership of the Office of the Superintendent of Public Instruction with policy guidance from the State Board of Education. The DOE is responsible for administering and enforcing all laws that impose those powers and duties that are provided for in the California Education Code.

Each of the county offices of education is operated by a county superintendent of schools in accordance with rules and regulations approved by a county board of education. Each of the K-12 school districts in California is under the control of a separate governing board. School boards have the authority to prescribe and enforce rules as long as these are consistent with law or with the rules prescribed by the State Board of Education.

Audit Results

More than 75 percent of California's schools for grades K-12 train students to resolve conflicts among themselves. However, few schools have an "extensive," or comprehensive program that educates the entire school community-teachers, students, parents, principals, clerical, and support staff-about strategies for defusing potentially violent disagreements. At schools that do use extensive programs for conflict resolution and that devote necessary funds and staff resources to the programs, principals report feeling that their schools are relatively prepared to handle disputes among students, between students and the schools, and between parents and the schools. In addition, some schools have data indicating that conflict resolution programs have reduced fighting and suspensions on the campuses, and anecdotal evidence suggests that such campuses are quieter and more peaceful than they were before the programs began.

Interviews of faculty and other staff at 14 California schools helped identify the key elements and best practices of conflict resolution programs. The Bureau of State Audits learned that effective programs incorporate three essential approaches that together involve everyone in the school community: the training of students to act as peer mediators for other students who have disputes; the incorporation of conflict resolution

principles into students' regular academic curriculums; and the education of all members of the school community, including parents, about methods for alleviating conflicts. Further, the most comprehensive, thorough programs use peer mediators who adequately represent their schools' populations, perform mediations as soon as possible, and receive prompt evaluations from adults about the mediation sessions. These programs also tailor conflict resolution education to the needs of the particular schools' students and teach strategies in core classes such as English and History. Finally, these programs strive to train as many people as possible.

Currently, schools have varying resources for implementing such programs, but many schools use their general funds to pay for programs aimed at reducing school violence. Despite many demands on their limited funding, some schools have made conflict resolution programs a high priority and are committed to supplying necessary money and staff resources to run their campuses' programs. Recent legislation provides about $100 million for school safety programs in Districts with grades 8 through 12 enrollments, but these districts must decide how exactly they will use the funds and whether they will devote any or all the money to conflict resolution programs.

98115.1 California Science Center: It Does Not Ensure Fair and Equitable Treatment of Employees, Thus Exposing the State to Risk, August 1999

This report is the second part to a report requested by Senators Diane Watson, Steve Peace, and Richard Polanco. They had requested that the Joint Legislative Audit Committee direct the State Auditor to conduct a comprehensive personal and performance audit of the California Science Center to determine whether California's investment and interests are protected. The first part of this report was issued in April of 1999.

Background

The California Science Center (Center), formerly known as the California Museum of Science and Industry, is an educational, scientific, and technological center and is administered by a nine-member board of directors appointed by the Governor. It was created to stimulate the interest of Californians in science, industry, and economics. The Center is located in Exposition Park; a tract of land owned by the State and it exhibits and conducts programs in a number of state-owned buildings.

The Center's activities are financed mostly by the State's General Fund and the California Museum Foundation Fund. The California Museum Foundation is a nonprofit corporation established to solicit funds for acquiring and maintaining exhibits, and assisting in the Center's educational activities.

The Senators are concerned that the relationship of the center and the foundation has changed and may no longer be in the best interest of the State. They believe that the foundation's role in the daily operations and management of the center has increased, while the State's has decreased.

Audit Results

The Center, a downtown Los Angeles state-of-the art museum focusing on science, industry, and economics, has poorly managed its personnel responsibilities, creating a work place in which employees are not assured fair and equitable treatment. As a result of serious problems with its examination and hiring processes, inconsistent resolution of complaints and grievances, a deficient training program, and poor record keeping, the Center exposes the State to future litigation. For the Center to successfully accomplish its mission, it relies on the work of many employees. In fact, more than 140 civil service employees, ranging from museum curators to security officers, carry out its day-to-day functions. Therefore, it is imperative for the Center's executive management team to foster an attitude of fairness and equality for all employees by ensuring its staff adhere to sound personnel practices.

The Center has failed to follow many personnel practices established by the State to ensure the fair and equitable treatment of civil service employees. These personnel practices include rules for testing and selecting candidates, classifying and compensating

employees, notifying employees of their rights, and requirements for training and record keeping. The review reveals serious problems with many of these activities. For example, the Center does not always comply with rules for appointing civil service employees. Consequently, in some instances the Center may not have hired the most qualified individuals, and thus will be unable to defend any of these decisions should they be challenged. The Bureau of State Audits noted instances when the Center failed to follow regulations and procedures for properly classifying and compensating employees. Had the Bureau not brought these errors to its attention, several employees may not have received appropriate retirement benefits. Further findings show that the Center significantly exceeded its budget for temporary help and overtime.

In addition, employees are not consistently informed of their rights and responsibilities, either through a manual, bargaining unit contract or an orientation class, when they are hired. The Center's documentation of complaints and grievances and the related resolutions was severely limited, making it unclear whether complaints were properly addressed and resolved. Finally, individuals responsible for considering proposed disciplinary actions have not been properly trained. Therefore, the Center cannot be certain that employee rights are protected.

In addition to not informing employees of their rights, the Center has an inadequate training program. Despite regulations, the Center does not have an overall training plan or program designed to promote a capable, efficient, and service-oriented work force, nor does it maintain central training records to demonstrate which employees have received training. It further appears that higher-level employees receive more training opportunities than those at a lower level. As a result, some employees are better informed of important policies, which gives the appearance that the Center treats its staff unfairly or inequitably.

Audit Recommendations

To ensure the fair and equitable treatment of all employees, the Center needs to adhere to sound personnel practices. Specifically, the California Science Center should:

- Comply with the State's testing and hiring procedures and provide necessary training for staff in its personnel office.

- Account for the number of hours its employees work so that it can enroll them in the appropriate retirement system and limit their hours to the maximum that is allowed by state law.

- Continue the practice it began recently of informing all staff of discrimination and sexual harassment policies and procedures, as well as provide staff with copies of their bargaining unit contracts. In addition, train skelly officers, or those individuals who consider and make recommendations regarding any disciplinary actions proposed against civil service employees.

- Track and maintain all employee complaints, as well as monitor their resolution.

- Provide supervisors with complaint resolution procedures and training.

- Establish a comprehensive training program that includes equal opportunities for all levels of staff and then track the training given to employees.

- Develop and distribute an employee manual.

- Continue efforts to obtain additional permanent positions.

Agency Response

The California Science Center agrees with the recommendations of the Bureau of State Audits and stated that it has begun taking corrective actions.

99113 Department of Transportation: Disregarding Early Warnings Has Caused Millions of Dollars to Be Spent Correcting Century Freeway Design Flaws, August 1999

Assembly Speaker Antonio Villariagosa and Assemblymember Sally Havice requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the circumstances surrounding the collapse of Interstate 105 in Los Angeles (also known as the Glenn Anderson or Century Freeway). Specifically, the audit was to determine whether there were costly errors in current and planned construction projects intended to correct the resulting structural defects might lead to even more costly repairs, and serious long-term safety problems.

Background

Interstate 105, also know as the Glenn Anderson Century Freeway-Transitway, stretches 17.3 miles from Sepulveda Boulevard in El Segundo to the San Gabriel River Freeway (605) in Norwalk. Plans for the $2.22 billion freeway were first drawn up in 1958, and it was added to the Interstate highway system in the late 1960s. However, environmentalists and residents of the Century Freeway corridor filed a lawsuit to block the freeway in 1972. As a result, the first construction project did not break ground until 1982 after a consent decree altered the size and scope of the freeway project. The Freeway opened to traffic on October 14, 1993, more than 30 years after its inception.

The Century Freeway project was funded with state and federal funding, involving the California Department of Transportation (CalTrans); the Federal Highway Administration; and several other Federal, State, and Local government agencies.

Throughout the life of the Century Freeway project groups have raised concerns over a variety of complex issues, including projected cost, construction delays, and the potential loss of federal funds. Recent news reports have stated that the Century Freeway is too close to the water table and is threatened with collapse. The requesters are concerned that CalTrans may not have fully disclosed the extent of these recently reported problems or properly estimated the total cost of resolving the Freeway's drainage and structural defects.

Audit Results

After nearly 30 years of controversy, court injunctions, and delays, CalTrans opened the Century Freeway in Los Angeles County in October 1993. In March 1995, problems again arose for the freeway when, less than two years after the opening, CalTrans discovered cracking and sunken sections in the shoulder areas of the freeway that it had constructed below ground level. Although, it originally thought the problems involved maintenance issues, by January 1996, CalTrans became aware that matters were far worse: it had not designed the lowered section of the freeway to compensate sufficiently for the effects of rising groundwater beneath the pavement.

During the planning, design, and construction phases for the Century Freeway, CalTrans disregarded warning signs that could have prevented design flaws in the Freeway's 3.5-mile lowered section. More significantly, CalTrans disregarded the 1968 recommendation of its staff to test extensively the soils and the groundwater levels in the area planned for the lowered section, even when it designed the modified storm-drain system for the Freeway in 1973. Further, in late 1981, CalTrans agreed to extend the length of the lowered section of the freeway west toward the Los Angeles River, and CalTrans apparently designed this extension without adequate research and consideration, such as additional testing of the soil and groundwater conditions in the area. If CalTrans had performed these tests, it could have realized the rising groundwater would threaten the freeway as designed, and it could have taken appropriate steps early in the project.

CalTrans has documents from 1987 showing that groundwater levels had risen substantially between 1985 and 1987 in the area planned for the below ground level section of the Freeway. However, because this analysis was for determining bridge foundations, it was not sent to the district unit designing the lowered section. During construction of the drain system for the lowered section in July 1990, CalTrans installed four drainage wells because it was encountering a lot of water. The ground was so wet that CalTrans halted construction for more than six weeks. Another six years passed before CalTrans realized it had a serious groundwater problem.

While CalTrans was struggling to move forward with the Century Freeway project, another agency was taking action that was to have important consequences for the Freeway. The Freeway crosses over two groundwater basins. By the 1950s, the groundwater of these basins had been over pumped, reducing available groundwater supplies while demand for groundwater was increasing. As part of the effort to restore the health of the groundwater basins, a water replenishment district was established in 1959, to return water to the basins. By early 1997, the groundwater levels had increased over 30 feet. Although the groundwater replenishment involves all the geological layers, those layers closest to the surface, which are about 25 feet below grade are the ones affecting the lowered section of the Century Freeway.

CalTrans may have pushed ahead without further analyzing groundwater conditions because it was under some pressure to begin construction of the Freeway after the 1981 lifting of a court injunction that had halted its progress for many years. To qualify for federal highway funding for this project, CalTrans had to meet certain construction deadlines.

In January 1996, once CalTrans acknowledged that the cracking and sinking were more than ongoing maintenance problems, it spent $22 million in emergency repairs and planned to use another $45 million for permanent repairs to the drainage system. CalTrans engaged both in-house engineers and outside consultants from academia and private practice to evaluate the underlying causes of the problems and develop options to resolve them.

Although it is working to remedy the situation, CalTrans must still determine what it will do with the groundwater it pumps from beneath the freeway. As of May 1999, CalTrans had paid, under protest, more than $370,000 in taxes to pump out the groundwater. Cal Trans is currently diverting the water into the Los Angeles and San Gabriel rivers: thus the water is not available for other uses. CalTrans is, on the other hand, reviewing proposals with two local cities to find beneficial uses for the extracted water so that it does not waste the water or undermine the efforts of the local water replenishment district. Because CalTrans has not determined the best resolution to the groundwater disposal problem, it has no firm estimates of the costs related to the reuse of the extracted water. However, preliminary estimates suggest that the additional costs could be more than $50 million for initial costs and from $370,000 to $5 million in annual costs.

In responding to concerns that CalTrans withheld information about the problems that it was experiencing on the Century Freeway, CalTrans acknowledged it could have done more to inform the Legislature. However, CalTrans did include some information related to the Century Freeway problems in its normal communications with local Legislators, the public, and the California Transportation Commission.

Since the groundwater problems became apparent, CalTrans has reassessed some of its policies and procedures and convened an in-house review of the circumstances leading to the problems at the lowered section of the Century Freeway. The review panel made numerous recommendations for new or revised procedures and most units have responded appropriately. However, CalTrans has not monitored some units, which were slow to implement changes.

Audit Recommendations

CalTrans should inform the Legislature, through its Senate and Assembly Transportation Committees, as well as the California Transportation Commission about Cal Trans's progress in determining an environmentally sound and cost-effective method for reusing the groundwater pumped from under the Century Freeway.

CalTrans should continue working with the Water Replenishment District of Southern California to coordinate actions so that neither agency jeopardizes the other's efforts to fulfill its organizational mission.

To ensure that it properly puts into practice the recommendations from special in-house staff reports, CalTrans should ensure that the unit designated to implement these recommendations periodically reports its progress to Department management.

Agency Response

The Business, Transportation, and Housing Agency and CalTrans agreed with the recommendations of the Bureau of State Audits. In addition, Cal Trans suggested several wording changes to the draft report.

99128 UCSF Stanford Health Care: The New Entity Has Not Yet Produced Anticipated Benefits and Faces Significant Challenges, August 1999

Senate President Pro Tempore John Burton, Senator Jackie Speier, and Assemblymembers Shelley and Migden requested that the Joint Legislative Audit Committee direct the State Auditor to review the operational changes that have occurred as a result of the merger of the University of California Medical Center at San Francisco and the Stanford Medical Center.

Background

The UC Board of Regents, in November 1997, approved the merger of the UCSF Medical Center with Stanford Health Services to form the UCSF Stanford Health Care, a new private, nonprofit entity. This private nonprofit organization is governed by a 17-member board, including six representatives from the University of California and six from Stanford University. It operates four acute care hospitals—UCSF Medical Center, UCSF/Mount Zion Medical Center, Stanford Hospital and Clinics, and the Lucile Salter Packard Children's Hospital at Stanford.

The UCSF Stanford Health Care's 1999, first quarter reports show a loss of nearly $11 million. Recent reports of forecasts indicate a $60 million loss by the end of this year and over $100 million by the next year. The UCSF Stanford Health Care's financial recovery plan includes cost reduction through layoffs and changes to services at the Mount Zion Hospital, which reportedly is the source of the health care's financial woes. The UCSF Stanford Health Care's board will be meeting on July 23, 1999, to discuss and vote on new strategies for financial recovery.

Audit Results

In 1997, UCSF and Stanford merged to create a stronger entity better positioned to face future health care challenges than each would have been separately. The success of the merger was premised, in major part, on two important goals:

- Generating an additional revenue stream of about $50 million annually by combining the intellectual capital of the two prestigious medical institutions, thus creating a "world class" organization that would significantly increase its market share of highly specialized, and potentially lucrative, cases.

- Lowering costs by about $30 million annually through consolidating duplicate services.

In the 22 months since merging, UCSF Stanford Health Care has been unable to achieve these goals to the degree anticipated. First, the two entities have not combined their intellectual capital as planned since they have not fully integrated clinical programs. Also, UCSF Stanford Health Care now estimates a loss of $46 million for its first two years of operation rather than a financial gain of $65 million as projected in the business

plan. This is a difference of $111 million. Moreover, the overall case complexity level has remained about the same after the merger due, in part, to UCSF Stanford Health Care's change in approach that focuses on increasing total revenue regardless of the type of case.

To address its deteriorating financial condition, UCSF Stanford Health Care employed one of its consultants to create a financial recovery plan. To bring UCSF Stanford Health Care expenses in line with those of other academic medical centers, the consultant identified cost savings targeted to total $170 million annually by August 2001. In addition, the consultant developed an inventory of other revenue and expense opportunities totaling an approximate $100 million annually for UCSF Stanford Health Care to consider. These latter opportunities may not be fully achieved due to various political, managerial, communities and other concerns.

If it successfully implements the consultants recommendations or identifies other opportunities totaling $270 million annually by the end of August 2001, the consultant estimates that UCSF Stanford Health Care will show a modest $47 million profit in fiscal year 2000-01. These recommendations include many savings UCSF and Stanford would have needed to consider had they not merged and others that are dependent upon consolidating because they merged.

To estimate the approximate financial effects from merging, the Bureau of State Audits allocated revenues and expenses between activities considered related to the merger and those that would have existed without the merger. The Bureau of State Audits estimated that the merger contributed to $19 million in losses during the first two years, but it may generate $140 million in profits in the next two years if portions of the $270 million in revenue enhancements and cost savings that the Bureau of State Audits allocated to the merger are achieved.

Cost reductions will be necessary whether the entities remain together or separate. However, if the two institutions are not both strengthened by their affiliation to the degree that was initially envisioned the justification for continuing the relationship might be called into question. Currently, UCSF and Stanford are considering whether to continue the present form of governance. They will need to determine if their objective is to enhance their academic missions by combining intellectual capital or if they are only interested in reducing administrative costs. In addition, they will need to find a corporate structure that will allow them to maximize their return on the significant investment UCSF Stanford Health Care has made in infrastructure for the consolidated functions of accounting, computer systems, marketing, and others. Regardless, of its current financial difficulties, key indicators appear to suggest that UCSF Stanford Health Care has maintained its commitment to patient access to quality health care and increased its support of community programs.

Agency Response

The UCSF Stanford Health Care generally agreed with the conclusions of the Bureau of State Audits.

99118 Wasco State Prison: Its Failure to Proactively Address Problems in Critical Equipment, Emergency Procedures, and Staff Vigilance Raises Concerns About Institutional Safety and Security, October 1999

Assemblymember Dean Florez requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the administrative practices of the Wasco State Prison. Specifically, the audit was to examine the emergency safety procedures at Wasco State Prison, as well as its procedures for protecting correctional officers' confidentiality.

Background

The California Department of Corrections operates all state prisons, oversees a variety of community correctional facilities, and supervises all parolees during their re-entry to society. Wasco State Prison (WSP) is one of 33 state prisons operated in California. Located about 20 miles north of Bakersfield, it has an annual operating budget of $83 million and employs over 650 custody staff and 450 support services staff.

As a prison/reception center, the WSP's primary mission is to provide short-term housing necessary to process, classify, and evaluate new inmates physically and mentally to determine their security level, program requirements, and appropriate institutional placement. In addition to the reception center, a 500-bed medium custody facility houses general population inmates to help support and maintain the reception center. A minimum custody facility provides inmate work crews for community service projects and institutional maintenance outside the security perimeter.

Assemblymember Florez is concerned with several recent incidents that occurred at the WSP. One involved prisoners obtaining confidential information relating to correctional peace officers that work at the WSP. Also, back-up generators failed during a power outage. The requester is concerned about the safety of correctional officers and the surrounding communities because of the apparent breach in or lack of policies and procedures.

Audit Results

The California Department of Corrections (CDC) and the management at Wasco State Prison near Bakersfield have developed many policies and procedures to ensure the safety of Wasco's staff and inmates. However, such policies are useless if not enforced. As several recent incidents demonstrate, WSP has not followed its own policies that direct management to create an atmosphere of vigilance in which emergency equipment receives sufficient maintenance and staff monitor inmates appropriately. By failing to enforce these policies, WSP has endangered both staff and inmates.

Specifically, management at WSP has not ensured that plant equipment undergoes adequate service and that staff completes high-priority repairs promptly. Because it does not keep its equipment functioning properly, WSP suffered an electrical failure in April

1999, that caused a total power outage lasting almost seven hours. This could have been prevented had management made certain that staff repaired previously identified flaws in the electrical system. By neglecting priority repairs and scheduled maintenance on critical emergency equipment, WSP risks the occurrence of significant problems in the future.

In spite of the fact that emergency readiness is a significant part of WSP's mission, its management has not adequately prepared the prison and its staff for emergency situations that could affect the entire institution. Although, WSP trains staff to handle certain types of emergencies, the power outage revealed that many employees had never received instruction in emergency procedures. Moreover, at the time the outage occurred, neither WSP's management nor the CDC had developed an emergency operations plan which might have aided staff that were overseeing the prison, so employees were instead forced to rely on their own experience. The fact that some of WSP's emergency supplies were deficient only exacerbated the problems that occurred during the emergency. Furthermore, WSP's lack of preparedness for the power outage prompts the Bureau of State Audits to question the prison's readiness for infrastructure or equipment malfunctions that might arise from Y2K problems. The Bureau is concerned about the extent and timing of the exercises WSP intends to use to test the viability of its year 2000 contingency plan.

Finally, even though WSP's policies and training emphasize the importance of staff remaining constantly alert and vigilant, recent events indicate that the staff has become increasingly complacent when supervising inmates. Circumstances also suggest that an absence of managerial oversight or evaluation may be contributing to this lack of vigilance. In particular, staff and management have been lax in protecting confidential information; as a result, inmates recently gained access to documents that listed staff addresses and social security numbers. Without a heightened sense of awareness among prison staff, WSP has no guarantee that future compromises to security will not occur. Additionally, the Bureau questions the CDC's policy that allows inmates to use a detailed map of the WSP. Although, these conditions have not yet caused any serious repercussions, an unnecessarily risky atmosphere will remain until WSP resolves these problems.

Audit Recommendations

To prepare for the possibility of another emergency, such as the recent power outage, that could affect the entire facility, WSP should take the following steps:

- First identify all the high-priority repairs and preventative maintenance that its emergency equipment requires and then develop a staffing plan to eliminate quickly the backlog of repair and maintenance tasks.

- Develop a specific plan for such institution-wide emergencies as power outages and include this plan as a supplement to its emergency operations procedures.

- ❖ Train and drill employees to make certain they understand procedures and are prepared to act appropriately during an institution-wide emergency.

To ensure its readiness for possible infrastructure or equipment problems related to Y2K computer errors, WSP should do the following:

- ❖ Conduct a partial or full-scale simulation of a Y2K emergency in order to test the prison's Y2K contingency plan.

- ❖ Perform as soon as possible a drill that simulates loss of power so that management can evaluate the feasibility of WSP's contingency plan and allow adequate time to correct any deficiencies or to adjust the plan.

- ❖ Complete the repair and testing of its systems that rely on microprocessor chips, such as WSP's thermostats and electronic controls for inmate cell doors, to make sure the systems comply with the CDC's Y2K requirements.

- ❖ Make certain that supplies of emergency equipment are adequate and that the equipment is fully functional.

To safeguard prison staff, WSP's supervisors and managers need to cultivate an atmosphere of vigilance by setting examples with their own behavior and by closely monitoring staff interactions with inmates. When they observe staff displaying lax behavior while they are working with inmates, managers need to intervene promptly.

To prevent future problems concerning the security of confidential information, WSP needs to take these actions:

- ❖ Incorporate into its procedure manuals management's recent instructions about the storage and duplication of sensitive data.

- ❖ Require staff to record in control logs any documents scheduled for shredding.

In addition, the CDC should require each correctional facility to develop a plan for handling institution-wide emergencies, such as power failures, and to include this plan in its emergency operations manual. The CDC should also eliminate the unnecessary risk associated with inmate's access to detailed plans and maps of its institutions by amending the policy that allows such access.

Agency Response

Both Wasco State Prison and the California Department of Corrections concurred with the recommendations of the Bureau of State Audits and are taking corrective actions.

99112 Department of Developmental Services: Without Sufficient State Funding, It Cannot Furnish Optimal Services to Developmentally Disabled Adults, October 1999

Chairman Scott Wildman requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the impact a high staff turnover may have on the quality of care for adults with developmental disabilities in both developmental centers and regional programs. Additionally, the audit was to examine information relating to the qualifications and compensation for direct service staff in community based programs serving persons with developmental disabilities.

Background

The Lanterman Developmental Disabilities Services Act (Lanterman Act) charges the State of California with overseeing services to assist all people with developmental disabilities who wish to become a part of their communities. The Department of Developmental Service uses a statewide network of 21 independent, nonprofit regional centers to coordinate these services. Case managers at the centers assist developmentally disabled people with program plans that outline all services need to achieve their desired goals, ranging from transportation to job training or life skills. To carry out the plans, regional centers contract with community-based organizations for certain services.

Many community service providers are experiencing an extremely high level of staff turnover. Further, concerns were raised regarding the effect that the staff turnover rate may have on the level of care that individuals with disabilities receive. Another concern was whether care providers are adequately trained and compensated at a level consistent with their duties.

Audit Results

The State's system was designed to provide optimal service to consumers, but its success has been undermined by insufficient state funding and more than $106 million in budget cuts over a four-year period. The cuts occurred in the early 1990's and have not been fully restored. This has prevented the program from paying rates that reflect current economic conditions. Some providers did not receive rate increase for more than six years. Only within the last year has the State granted $33 million to increase rates for these providers.

Insufficient state funding figures prominently as one of the major obstacles that program providers report in delivering quality services to consumers. Providers that were surveyed unequivocally agree that funding keeps them from effectively competing for qualified direct care staff in California's flourishing job market. On average, direct care staff earn $8.89 per hour. Fewer than 40 percent of the providers surveyed offer benefits such as health insurance or sick leave. Providers find it difficult to attract candidates who could earn the same or more money in equivalent positions with seemingly less stressful duties. Once providers hire direct care staff, they find it difficult to retain them: The

average turnover rate for the last approximately 3.5 years was 50 percent, with most staff staying not quite two years.

Lengthy job vacancies create further disruptions in services. Providers need almost three months to fill openings and new direct care staff requires time to get to know the consumers and learn their needs. Continually establishing new relationships affects consumers as well; they regularly experience the loss of continuity in their services as well as the personal loss of familiar staff who assist them.

The regional centers we surveyed also report difficulties with hiring and retaining staff. The turnover rate for case managers was fairly low (14 percent) during the same period, and they remained in their positions three years or longer. However, these positions also have fairly lengthy vacancy rates. It takes about 2.5 months to fill the openings. The regional centers cite numerous causes for these delays, such as an unavailability of qualified personnel, the stressful nature of the work, and their inability to offer competitive salaries and career opportunities. Lengthy vacancies create further stress for the remaining staff, who must handle increased caseloads. The regional centers do not have sufficient state funding to hire enough case managers to relieve other case managers' loads. As a result, the managers are squeezed for enough time to properly address the consumers' needs, which can delay or disrupt services.

The Bureau of State Audits found that direct care staff in the developmental centers serve a different, more profoundly needy population, so their duties generally do not compare to the provider's direct care staff. Therefore, the study compared the wages of direct care staff and case managers under contracts with those in comparable programs, specifically providers working for the Departments of Aging and Rehabilitation. Direct care staff under all three Departments earn an average wage ranging between $8.60 and $9.10 per hour. Case managers under the Department earn an average of $17.50 per hour, while those under the Department of Aging make about 40 cents per hour less. However, our survey indicates that there is no correlation between wages and required experience for either position among the Departments. The Bureau of State Audits further found that caseworkers in public and private businesses performing comparable duties earn an average of $18.55 per hour, more than case managers for the two state Departments.

Although it was difficult to assess the direct impact that insufficient state funding and staffing difficulties have on individual consumers, the survey indicates that the State must improve this delivery system so consumers can receive consistent services, maintain long-term relationships with direct care staff, and thus integrate successfully with their communities. The Department of Developmental Services is taking some steps to improve the existing system, such as examining ways to revise the method it uses to pay certain providers and engaging a consultant to evaluate its budget process for the regional centers. However, until the State commits to ensuring that sufficient funding is available for this program, it will never be able to realize the spirit of the Lanterman Act.

Audit Recommendations

To ensure that consumers receive optimal services from the State in accordance with the Lanterman Act, the Legislature must take interim measures to align state funding with program costs until the Department of Developmental Services improves the existing service delivery system and implements a new budget process for the regional centers. Any additional funding should be earmarked specifically for increasing compensation for qualified direct care staff and reducing the caseloads for regional center case managers.

To ensure that providers continuously receive funding that reflects current economic conditions, thus allowing them to compete for qualified direct care staff; the Department of Developmental Services should expedite the completion of its service delivery reform efforts.

Finally, to effectively oversee consumer plans at the regional centers, the Department of Developmental Services should carefully consider its consultants' recommendations for the regional center budget process and implement those it deems beneficial as quickly as possible.

Agency Response

The Department of Developmental Services shares the concerns expressed in the report regarding the importance of ensuring the availability of qualified and competent direct care staff for all programs serving persons with developmental disabilities. However, it believes that expenditure decisions should be made in the context of the needs of its service delivery system as a whole.

99106 Department of Health Services: Although It Has Not Withheld Information Inappropriately, the Department Should Make Research Findings More Widely Available, October 1999

Assemblymember Louis Papan requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the Department of Health Service's (DHS) actions in handling surveys and research studies. Specifically, the audit was to determine whether there were inconsistent policies used for commissioning surveys and studies, and for releasing the results.

Background

The DHS administers broad range public health programs and the California Medical Assistance program, which provides health care services to qualified low income persons and families. The DHS is organized into seven programs and six support areas, and has over 20 divisions within these programs.

According to the DHS, many of the divisions collect research data for a variety of purposes. Depending on the availability resources and the objectives to be achieved, data sources may include, but are not limited to, telephone polling, written surveys and questionnaires, disease registries, and other existing data banks.

Several questions have been raised about how the DHS conducts survey and research studies and the manner in which the results are released. For example, the DHS conducted several random public opinion polls and surveys related to the smoking ban in gaming clubs, bars, and taverns, which took effect on January 1, 1998. In October 1998, the Little Hoover Commission investigated and raised concerns about the survey results that had been released by the DHS, and the intended purpose of the surveys.

Further, allegations have been made that the DHS may have suppressed the results of a cancer study the DHS conducted in 1997.

Audit Results

The DHS, which develops research on health-related issues as part of its effort to protect and improve the health of Californians, has not established policies or procedures to guide its decisions about whether, how, and when to publicize the results of this research. Nonetheless, our review of 10 studies commissioned or completed by the DHS during fiscal years 1997-98 and 1998-99 showed that even though such guidelines are absent despite criticism by legislators, the media, and citizens the DHS has not withheld study findings inappropriately. Not only is most of its information available upon request under the Public Records Act, but the DHS also has the authority to determine exactly how it will use the health information it acquires. Moreover, the DHS takes specific positions on certain health issues; sometimes by choice, but other times as required by statute, such as it does when advocating against smoking among Californians. These positions naturally guide the DHS's managers when they decide whether to release

information to the public, to supply the data to specific groups, or simply to use the information as a tool for developing and evaluating the DHS's programs and educational materials.

During the last year or so, the DHS has faced criticism about its decision not to release data from a survey of bar owners and employees that showed their lack of support for California's 1998 ban on smoking in bars. In reviewing this and other studies, the Bureau of State Audits concluded that the DHS's decision not to disclose the survey results to the general public was consistent with the original purpose for this survey and that the DHS did not intend to deprive the public or Legislature of information. Because the law requires the DHS to discourage tobacco use in California, and because the goal of the study was to provide data to programs within the DHS itself, management and staff instead used the results in an educational program aimed at bar owners and employees. Further, it appears that the DHS's distribution of a press release announcing widespread public support for the smoking ban in bars, an event that occurred just five days before a legislative hearing on a bill to reverse the ban, was not an attempt to influence legislative decision making.

On the other hand, its lack of policies about study distribution continues to leave the DHS open to allegations that management has held back or timed improperly the release of information that may be of interest to the general public. Even though the DHS has a policy that requires the Director's approval for documents prepared for public dissemination; the policy is effective only after a manager has chosen to publish research findings. The DHS does not give managers guidelines for deciding which studies they should propose for public release, so inconsistent decisions among managers may occur. Further, managers have not always followed existing policy, nor approval from the Director for studies they plan to make public.

The DHS is also vulnerable to charges that it is withholding information simply because it does not publicize the existence of information that the public can request. For example, of the 10 studies examined, 6 went to limited audiences or did not go beyond the DHS, but were available upon request. However, the general public probably does not know that these 6 reports exist. By developing a list of studies, surveys, polls, and research results that are available to the public, and by publishing this list in an accessible location, such as its Web site, the DHS could avert future controversies about the availability of its research.

Finally, the DHS could prevent controversies about the way it schedules the distribution of information if it were to publish the results of studies promptly after researchers have completed their work. For two studies we reviewed, the DHS unnecessarily delayed for various reasons its publication of the research data. Publication of one of these studies, involving hazardous radon levels in schools, awaited approval of a supplementary report by the DHS and by the Health and Welfare Agency, now called the California Health and Human Services Agency. This agency then waited to release the radon analysis until after California's new administration took office in January 1999. Because of delays at both the DHS and the agency, the study did not become public until almost one year after

its completion. This type of postponement reduces the information's effectiveness and may defer preventive action that should take place as soon as possible.

Audit Recommendations

Because the health-related information it obtains can be vital to Californians and concerns important issues ranging from prenatal care to occupational disease, the DHS needs to develop a strategy for distributing its findings to the widest appropriate audiences. In designing this strategy, the DHS should design classifications for its information that correspond with levels of release. The DHS should establish policies that guide its managers to use the classifications consistently as they determine whether, how, and when to release DHS information. The classifications for information should include at least these categories:

- Research findings that are important to the public should receive widespread release through the media.

- The DHS should create a list that discloses the availability of its information, and this list should appear in easily accessible places, such as on the DHS's Web site. In addition, the list needs to encompass all studies-including opinion polls, surveys, and research projects-that are available under the Public Records Act.

- Other types of information, such as documents and memos, that fall under the Public Records Act and thus should be available to the public upon request.

Moreover, to be sure that they are fulfilling their missions to enhance the health of Californians and to prevent the occurrence of health problems, the DHS and the agency should promptly release any information that may interest the public.

Agency Response

The Department agrees with the report's conclusions and states that it will review its policies and procedures to determine how it might improve the timely dissemination and accessibility of public information.

99114 The Los Angeles Unified School District: It Made Reasonable Decisions in Moving Its Business Services Center, but Must Act Soon to Successfully Relocate to a Permanent Site, October 1999

Chairman Scott Wildman requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the activities of the Los Angeles Unified School District's Business Services Center.

Background

The Los Angeles Unified School District (LAUSD) has approximately 900 schools and centers that are divided into 27 clusters to serve more than 800,000 students. The LAUSD provides support and assistance to its delivery of education through nearly 30 administrative offices, one of which is the Business Service Division. The Business Service Division has approximately 1,000 employees, and provides the LAUSD various support services, which include accounting, purchasing, contracting, transportation, and food services to name a few.

In 1991, the LAUSD sought to develop a new site for the Business Service Division, but for certain reasons the development plans did not materialize. Subsequent to the Northridge Earthquake in 1994, the LAUSD signed a seven-year lease to rent office space in the "IBM Tower."

Audit Results

The Los Angeles Unified School District made a reasonable decision to move its business services center, and its choice of buildings appears defendable. In October 1994, following the Northridge earthquake, engineers hired by the LAUSD found that the building housing its Business Services Center had structural flaws even though it suffered relatively minor damage from the earthquake. The engineers' review determined that these flaws could cause specific sections of the building to collapse if a moderately strong earthquake took place closer to the building. Concerned for the safety of its employees, the LAUSD's Board of Education declared an emergency and relocated the employees and services from the building. Retrofitting while the employees stayed in the building was not a viable alternative because of the risk of injury or death should another earthquake occur.

Thus, the decision to move the Business Services Center was reasonable, but the LAUSDs need to move quickly gave it little time to look for a new location. Further, the LAUSD's desire to keep its staff housed together limited its choices. In spite of these limitations, it appears that the LAUSD selected the most favorable alternative from the options it determined to be suitable. However, findings showed that the LAUSD's process of selecting a building lacked an independent evaluation of its cost assumptions and of the information provided to it by its real estate broker. The LAUSD relied heavily on its broker to identify and analyze its relocation options, even though the broker stood to benefit from the transaction. It is not prudent for a public agency to rely exclusively

on someone who stands to benefit from a transaction. This evaluation, independent of the broker, could have been performed either internally or externally, depending on whether the LAUSD possessed the necessary expertise.

Its lease at the interim site, the IBM Tower, will cost the LAUSD a significant amount of money. In their report, the Bureau of State Audits projects that this seven-year lease, including parking and relocation costs, will total $47.2 million. However, after considering offsetting savings from its former facility and a federal grant, the lease's $19.8 million projected net cost is close to the $20.5 million the LAUSD initially estimated as its expected net cost.

The LAUSD still has challenges ahead: It may find itself facing another hasty relocation if it does not act soon. Only advance planning can ensure timely and cost-effective decisions when relocating a large number of people. Yet with its lease ending in less than 2.5 years (March 2002), the LAUSD has not determined where it is going to relocate the Business Services Center. In March 1999, the LAUSD commissioned a study of the best options for the LAUSD. However, it has only recently received a draft report of the study, and thus is just starting to consider the consultants' recommendations.

Studies also determined that the majority of funding awarded to the LAUSD for the Business Services Center was for appropriate purposes. The LAUSD applied for funds from two federal agencies and one state agency and was awarded, or conditionally awarded, about $20 million to relocate and retrofit its Business Services Center. However, the LAUSD was inappropriately awarded funds of more than $130,000 because the State Allocation Board did not clearly communicate in its policy the intended purpose for its program's funds.

Audit Recommendations

To make the most of its financial resources, the LAUSD should do the following:

- ❖ Take prompt action to make cost-effective decisions about where to locate its Business Services Center when its lease expires in 2002 and what to do with its former business services facility.

- ❖ Protect its interests in significant financial transactions by obtaining an independent review of information its consultants provide, especially when the LAUSD's interests may conflict with its consultants, using a third party if necessary.

To avoid the misuse of state funds, the State Allocation Board's policies should clearly communicate its intentions when it allocates funds for specific purposes. It should also retrieve any funds it inappropriately disbursed, and unobligate funds it inappropriately approved.

Agency Response

The LAUSD agreed with the recommendations of the Bureau of State Audits and plans to take corrective action. In addition, the State Allocation Board plans to discuss the recommendation directed to it at a future board meeting and take appropriate action.

99122 California State University Northridge: Absent University Standards and Other Guidance, the World Pornography Conference Was Allowable Under the Basic Tenets of Academic Freedom and Free Speech, November 1999

Senator Ray Haynes requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit on the activities of the Center for Sex Research, California State University, Northridge. Specifically, the audit was to determine whether the University had inappropriately used public funds to advance political influence and the interests of special interest groups.

Background

The Center for Sex Research is comprised of faculty, staff, professional educators, and therapists with an interest and background in the field of sexuality. The Center operates under the College of Social and Behavioral Science within the California State University, Northridge. The Center has a formal academic program in sexuality and also sponsors seminars and conferences on topics of interest, research and publications.

Concerns were raised over the nature of conferences the Center has sponsored with the University promoting. In 1995, the Center sponsored the "Congress of Transvestitism and Transsexual Issues," and in 1997, the "International Conference on Prostitution." Last year, the Center, together with the Free Speech Coalition and trade association of adult entertainment industry presented a conference on pornography. Further, the center's planned conference for 1999, is entitled "Queer Activism's for a New Millennium."

Audit Results

In August 1998, the Center for Sex Research, part of the California State University, Northridge (CSU Northridge), held a four-day symposium entitled "World Pornography Conference: Eroticism and the First Amendment" at a hotel near Los Angeles. Some critics challenged the conference's academic underpinnings, while others characterized it as merely a "trade show for pornographers." Despite the controversial nature of the conference's subject matter, the Bureau of State Audits found no clear standards for staging such conferences or for judging their academic sufficiency. Therefore, they cannot conclude that the conference lacked academic merit.

No clear standards exist that would have guided the staging of this conference, affected its content or direction, or influenced the expression of the views conveyed. Neither CSU Northridge nor the California State University (CSU) system has pertinent guidance. In general, the tenet of academic freedom (the freedom of teachers to teach and learners to learn without unreasonable restraint) would seem to support the center's right to hold a conference on pornography as long as teaching or learning occurred. Moreover, universities generally believe that setting standards for the content and nature of a

conference may violate faculty members' constitutional rights to free assembly and free speech.

According to its critics, the conference failed to include opposing viewpoints and inappropriately used state support. The conference did have a decidedly pro-pornography disposition. A trade group that represents the pornography industry co-hosted it. However, according to scholars with whom we talked, balance is not required at any one conference. Academic freedom provides the arena in which scholars can state their varying ideas, so the presentation of opposing or multiple viewpoints at a single academic event is not necessary. Those with differing views are free to hold their own academic conferences or use other means to make their views known.

Regarding the second criticism, we found no evidence that CSU Northridge gave the center any state funds for the conference; attendance fees more than covered the conference costs and the conference was held off-campus. The Center did use some of the services that CSU Northridge extends to all 58 approved centers on campus, including publicity for upcoming events, but the support services provided by CSU Northridge were neither extensive nor unprecedented.

Finally, because some scholars would say the conference was partly research-oriented, we believe that CSU Northridge could have better stemmed the tide of controversy if it had a process to investigate allegations of misconduct in research. Research misconduct includes fabrication, falsification, plagiarism, deception, or other practices that seriously deviate from those commonly accepted within the scientific community for proposing, conducting, or reporting research. Procedures for pursuing allegations of research misconduct provide the nation's top public research universities, including the University of California, a vehicle for investigating and reporting allegations of improper research activities by their faculty, staff, or students. The CSU system has not required its component universities to establish procedures to address such allegations, and CSU Northridge has not adopted them on its own.

Audit Recommendations

The CSU system should ensure that its universities set up procedures for responding to allegations of research misconduct.

Agency Response

The Chancellor's office concurs with the recommendation of the Bureau of State Audits and indicates a policy addressing it will be ready early next year.

99108 California Public Utilities Commission: Its Decisions About Deregulating the State's Telecommunications Industry Will Not Affect Residents Immediately and the long-term Effects of Policy Changes Are Unknown, November 1999

Assemblymember Virginia Strom-Martin requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the potential impact on rural communities dismantling the existing policy of telephone rate averaging. Specifically, the audit will determine if rural customers face rate increases without receiving the same level of service as non-rural customers.

Background

The Legislature in Chapter 278, Statues of 1994, directed the California Public Utilities Commission (CPUC) to assure the continued affordability and widespread availability of high-quality telecommunications service to all Californians. Thus opening all telecommunications markets to competition by January 1, 1997. Further, the 1996 Federal Telecommunications Act also opened all "local exchange" markets to competition.

Local Exchange Carriers (LEC) provide basic services, including access lines, dial tone, local calling, directory assistance; and 911 emergency service. To compensate for wide variances in the cost of providing basic telephone services, telephone corporations in rural areas receive a subsidy from the California High Cost Fund. This subsidy is intended to cover the difference between the cost of providing service and the rates the CPUC allows these corporations to charge. This geographic rate averaging ensures that residential customers in high cost, rural and outlying areas are able to continue to receive affordable services at rates no higher than those paid by urban residential customers.

Recently, the CPUC has heard arguments in favor of regionalizing rates to reflect the actual costs of providing services rather than the current structure that subsidizes the high cost areas. Proponents of geographic rate averaging claim that setting prices based on cost is consistent with a competitive marketplace. Assemblymember Strom-Martin is concerned that such actions will cause dramatic telephone rate increases for rural customers.

Audit Results

The telecommunications industry innovations are revolutionizing the ways we communicate, and new government regulations and policies will eventually alter how companies charge consumers for communication services. The CPUC already faces major decisions about policies that regulate the State's telephone companies. These policies currently allow both rural and urban telephone customers to receive similar services at comparable rates. However, these decisions and changes will occur over several years. Therefore, the State's telephone customers, regardless of where they live, will not soon experience any major alterations in their services or fees. Indeed, the

timing and magnitude of any changes arising from the commission's decisions are currently unknown.

Not only will the commission need to analyze how any policy changes will affect telephone companies and customers, but it will also need to ensure that it makes economically sound choices that satisfy conflicting business philosophies and diverse legal requirements. Specifically, the federal Telecommunications Act of 1996 (Act), which requires states to open the telecommunications market to competition, is prompting the commission to reexamine California's long-standing policies of averaging telephone rates across rural and urban areas (geographic rate averaging). Act also has the commission revisiting California's use of subsidies, which are funded through monthly surcharges on customers' bills, to ensure equitable rates for all Californians. Both policies have supported the State's mission to supply universal service-or affordable, accessible telephone connections-to at least 95 percent of all California households. In apparent contrast to these policies, however, is a premise underlying the Act which presupposes that, in order to remove barriers to competition and promote fair products, states should establish rate structures in which customers pay fees based on the actual costs of their telecommunications services.

Although the commission initially planned to reassess its current system of geographic rate averaging at the end of 1998, they have not yet begun this reevaluation. The commission is waiting for Federal Communications Commission guidance before it begins an official public proceeding to conduct in-depth studies and analyze rate averaging. In the meantime, the commission has been studying other areas concerning the removal of barriers to competition. The commission's decision-making process, its official proceeding on the possible elimination of rate averaging and related matters, will require from 18 months to six years. Telephone customers in California will therefore not immediately feel the results of any commission decisions. Nonetheless, if the commission concludes that rate averaging is not compatible with a competitive telecommunications market, some customers' telephone rates will probably increase, while other customers' rates will decrease. Other possible effects are speculation at this point.

Even though it has not yet determined the future course for rate averaging, the commission must continue to fulfill the federal Act's intent, which is to provide high-quality telephone services at low rates and to encourage the use of new telecommunications technologies. Under current policies, telephone customers receive the same basic telephone services for comparable rates regardless of whether they live in rural or urban areas. Only about 112,000 people in California, who constitute 3 percent of the rural population or less than 1 percent of the State's total population, live in areas where traditional telephone service is not offered. Moreover, some rural areas have newer, more state-of-the-art equipment than urban areas because rural areas are eligible for low-interest federal loans. Although the quality and type of telecommunications equipment can vary among areas in California, the vast majority of rural customers now have access to the same advanced technologies, such as high-speed Internet connections, that are available to urban customers.

Regardless of the technology, rates, and services now in place in California, the telecommunications industry and market will undergo critical changes during the next several years. These changes may have positive and negative, dramatic and insignificant effects on rural customers, urban customers, businesses, schools, and governmental entities. Given the challenges of easing competition into the telecommunications market and the difficulty of revamping complicated existing policies, the commission intends to begin the next phases of its evaluation process in early 2000. In arriving at its conclusions, the commission should seriously consider the possible impacts of its decisions on all players in the telecommunications industry.

Agency Response

The commission generally agreed with the information provided by the Bureau of State Audits in the report.

99110 Dymally-Alatorre Bilingual Services Act: State and Local Governments Could Do More to Address Their Clients' Needs for Bilingual Services, November 1999

Senator Martha Escutia requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit to determine whether state and local agencies are complying with the Dymally-Alatorre Bilingual Services Act (Act). Specifically, the Senator is concerned that some agencies do not comply with the act and thus, important public services have been denied to language minority communities.

Background

Legislation was enacted in 1973 (California Government Code, Section 7290 et seq.) to provide for effective communication between all levels of government in the State and the people of the State who are precluded from utilizing public services because of language barriers.

The Act requires State and local public agencies providing information or rendering services to a substantial number of non-English-Speaking people to employ a sufficient number of qualified bilingual persons in public contact positions to ensure the provision of services or information. The Act also requires that agencies survey each of its local offices every two years to obtain information about the public that it serves.

In addition, the Act requires the State Personnel Board to inform State agencies of their responsibilities under this Act, provide technical assistance upon request on a reimbursable basis, and to provide forms to agencies for bi-annual (every two years) reporting of required information under the Act.

The Senator is concerned that important public services have been denied to language minority communities because agencies may not have staffed their offices with bilingual personnel or provided language-appropriate written materials.

Audit Results

Some state agencies have not fully complied with certain provisions of the Dymally-Alatorre Bilingual Services Act (Act); therefore, they cannot ensure that they provide equitable services to people who require bilingual assistance has been provided. The Act requires that, when state and local agencies serve a "substantial number of non-English-speaking people," they must employ a "sufficient number of qualified bilingual staff in public contact positions" and translate documents explaining available services into their clients' languages. Although, state agencies provide bilingual services, 8 of the 10 state agencies we audited have not established procedures to regularly assess their need to provide such services to their clients. They base their assessments on the results of a language survey conducted more than three years ago. While the results of the survey may have identified the agencies' needs at the time, they may not accurately reflect the agencies' current need to provide bilingual services.

In addition, most State Agencies we audited were not aware of their responsibility to translate materials explaining services into languages spoken by a substantial number of the people they serve. Only 2 of the 10 agencies audited were aware of this requirement. Moreover, only 1 agency translates these materials into the languages of those individuals who make up 5 percent or more of the population it serves, as the Act requires.

The State Personnel Board (SPB) could do more to fulfill its responsibilities under the Act. It compiles data that state agencies collect from field offices throughout the State and prepares a report for the Legislature, but it does not fully analyze and process this information. Furthermore, the SPB report does not clearly present the State Agencies' ability to meet the language needs of clients in their field offices.

The SPB also could provide better technical assistance when statewide language surveys are conducted. For example the SPB, receives corrective action plans from State Agencies that have identified bilingual staffing deficiencies, but it neither evaluates the adequacy of these plans nor follows up on their implementation.

Although local agencies must adhere to the Act, they have discretion in defining a "substantial number of non-English-speaking people" and the extent of bilingual services they will provide. The Bureau of State Audits surveyed administrators and department managers in 50 cities and counties throughout California to determine the types of bilingual services local agencies offer and the languages in which they provide services. Most use a variety of resources, including staff, interpreters, and translated pamphlets and brochures that explain the available services. However, they found that 53 city and county departments have identified a need to provide bilingual staff and translated materials in 33 languages, yet they do not offer any bilingual services for 19 of these languages and provide only limited services for the remaining.

Although these local agencies are exercising their discretion allowed under the Act, their bilingual services may not be meeting their clients' language needs. Furthermore, because some departments are not providing necessary bilingual services, some clients may not be receiving government services to which they are entitled.

Our survey also revealed that the extent of bilingual services varies widely among cities and counties and even among different departments in those cities and counties. Nearly all departments in our sample are responsible for developing their own policies, assessing the need to provide bilingual services, and identifying the type of services they will provide. Most department managers reported that they often base their assessment of their clients' bilingual needs on informal observations made by staff about the languages their clients speak. Moreover, two-thirds of the administrators and department managers reported that they assess the need to provide bilingual services "when needed" or that their assessments are "ongoing" rather than at specific periodic intervals.

Most respondents reported that they recruit bilingual individuals for positions that have contact with the general public. Fewer reported that they train their employees on

technical terms, procedures, and other resources that are available to non-English-speaking clients. Only a few administrators and department managers indicated they have received complaints about a lack of bilingual staff or translated documents.

Finally, the Bureau of State Audits found that health departments have more extensive bilingual resources and services than do other departments. County health departments are more likely than other departments to assess the need for bilingual services on a regular basis, recognize the need for a greater number of languages, and have a wider array of resources to meet those needs. Still, we found that health departments can make improvements, such as translating materials explaining available services into the languages of clients who do not speak English.

Audit Recommendations

State agencies should become more proactive in implementing certain provisions of the Act. They should develop procedures to conduct their own periodic assessment of their clients' language needs, rather than relying on the biennial language survey. Further, each state agency should delegate the responsibility for monitoring its compliance with the Act and implementing its corrective action plans to a specific unit or employee on a continuous basis.

The SPB should perform these activities, as the act requires:

- Inform State Agencies that the Act requires translation of certain publications into the language spoken by a substantial number of the people they serve.

- Ensure that State Agencies report all information they collect during the biennial surveys, including expected vacancies in public contact positions for the coming year.

The SPB also should assist state agencies in implementing the Act by assuming a leadership role and conducting some activities that, while not specifically required, could improve the performance of state agencies and the overall quality of the State's bilingual program. Specifically, the SPB should:

- Inform state agencies that they are required to comply with the Act even when statewide language surveys are not conducted.

- Establish practices for evaluating the adequacy of corrective action plans and for monitoring their implementation.

- Revise its training program for survey coordinators to include guidance on how to identify all provisions of the Act that apply to State Agencies.

- Revise the format of the statewide language survey report to include additional information that would present a more representative picture of the bilingual resources available at each agency.

- Revise the contents of the statewide language survey report to present information in a more useful way.

- Serve as a resource coordinator for state agencies.

To ensure that their clients who do not speak English receive information about the services they provide local agencies should consider translating materials explaining available services into the languages spoken by a substantial number of their clients.

To more fully assess their clients' language needs, local agencies should consider using formal assessment methods to track the languages their clients speak and consider assessing the needs on a regular basis.

To ensure that complaint's about a lack of bilingual staffing and translated materials are addressed, local agencies should consider developing and using a formal complaint processes.

Agency Response

The SPB and four of the State Agencies audited generally concurred with the conclusions and recommendations of the Bureau of State Audits. The California Highway Patrol and the California Environmental Protection Agency also generally concurred with the conclusions, but offered clarifying information. The remaining five agencies chose not to respond to the audit.

99119 Los Angeles City Fire Department: The City Can Do More to Enhance the Safety and Effectiveness of Its Air Operations Unit, November 1999

Senator Richard Alarcon requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the Los Angeles Fire Department. Specifically, the Senator would like a review of the Department's safety programs and procedures related to its use of helicopters.

Background

The Board of Fire Commissioners, a five-person civilian board appointed by the Mayor and affirmed by the City Council, provides direction to the Los Angeles Fire Department through the Fire Chief. The Department's mission is to preserve the life and property of all residents of Los Angeles by controlling and extinguishing fires, enforcing all laws relating to preventing or controlling the spread of fires, and providing basic and advanced medical life support intervention, and transportation to appropriate medical facilities. To accomplish its mission, the Department performs a variety of duties using various apparatus and equipment. One type of equipment the Department uses is helicopters.

The Department's Air Operations Unit, which was created in 1962 to help in emergencies, currently has a fleet of several helicopters designed for various uses. Those uses are for observation and command at incidents; water for fire suppression during grass and brush fires; air ambulances for hoist incidents; and, for swift water rescues.

Last year, the Department experienced an incident with one of its helicopters resulting in the loss of lives. The Department investigated the cause of the incident and, among its other findings, reported that the helicopters lacked certain supplies and equipment. Senator Alarcon is concerned about how the Department uses its helicopters, whether the staff is properly qualified or trained, and whether the Department has an adequate safety program.

Audit Results

The recent crashes of three Los Angeles City Fire Department helicopters have prompted concerns about the safety of its helicopter operations and compelled the Legislature to request this audit. Legislators wanted to know whether the Department's policies and procedures governing the use of its helicopters compare favorably to similar operations at other agencies, whether it properly trains its aircrews, and whether the air operations (air ops) unit has an adequate safety program.

The National Transportation Safety Board is still investigating the causes of two of these crashes-one of which killed four people-therefore, we cannot conclude on that issue. The Bureau of State Audits found aspects of the Department's helicopter operations where safety is a concern, particularly in the staffing and training policies. The Department has attempted to save on personnel costs by assigning new pilots, aircrew support personnel (helitacs), and paramedics to ground fire stations. The air ops unit should be these

aircrew members' primary assignment, yet they only serve the air ops unit on an on-call basis. As a result of this "doubling up" of assignments, new pilots find their training opportunities are restricted. Similarly, paramedics and helitacs get only limited training with air ops and its pilots. Limited training opportunities may increase the underlying operational risk for all aircrew personnel. New pilots face a further disadvantage because their part-time availability to air ops prolongs the time it takes for them to acquire sufficient flight hours to upgrade into the unit's primary aircraft, the Bell 412.

Delays are another serious problem resulting from the Department's staffing methods. Air ops missions can be delayed from 3 to 10 minutes because the flights must wait for aircrew members to arrive from other locations. By January 2000, the Department plans to partially resolve this issue by assigning paramedics to the air ops facility on a full-time basis; however, it must still address staffing for new pilots and helitacs.

By modifying its staffing of air ops commanders as well as of its aircrew members, the Department could enhance its effectiveness and help reduce its operational risk. The Department currently limits the air ops commander to a two-year assignment and does not staff a chief pilot position. The commanders' relatively short tenure causes them to focus on short-term issues at the expense of policy development and continuity that could contribute to long-term stability and effectiveness in the unit's operations. Additionally, although a trained firefighter, the commander is not a pilot and is not familiar with aviation operations. Consequently, it takes the designee considerable time to become familiar with the particulars of running an aviation unit. The unit's administration could be helped considerably if the department would also appoint a chief pilot to assist the commander and to serve as the final point of command for flight operations.

Another area of concern is related to the Department not consistently funding training for its helicopter pilots. Although, it reinstituted simulator training, in 1998, the Department did not fund this training from 1993 through 1997. The air ops unit should also establish a formal training program for its pilots with regularly scheduled flight safety meetings. While the training program for pilot trainees at air ops is intense, the recurring training program for its graduates provides significantly fewer activities and opportunities for them to continue developing their skills. A more intensive regular training program including ground simulators, classroom courses, and periodic flight-safety meetings would be a positive step in minimizing the risk inherent in all aviation operations.

In addition, the lack of a helicopter replacement policy may further affect the overall safety of the air ops unit. The Department's older helicopters are less effective in meeting its various missions and becoming an increasing maintenance burden. Older helicopters lack the new technology and safety equipment to reduce some of the department's risk in performing its missions of fire suppression, air ambulance, and search and rescue. In addition, older helicopters' maintenance costs increase significantly. A long-term replacement policy would allow the Department to plan to retire older aircraft.

The Department is attempting to remedy some of the problems that compromise the safety of its helicopter operations. Following the second helicopter crash in March 1998,

it commissioned a comprehensive assessment of its air operations activities. Based on this review and numerous recommendations from outside entities, the Department has improved some aspects of its air operations. It has resumed simulator training, purchased three replacement helicopters, and revised its staffing policy for paramedics. In addition, air ops aircraft began operating at its new temporary facility. This relocation eliminated its previously restricted departure and approach routes and significantly improved the safety of both. Many of the recommendations we are making are also included in the Department's own internal study of its aviation operation.

Audit Recommendations

The Department should take these steps:

- Review and revise its staffing policies and patterns to permit all aircrew members to be stationed at the air ops unit.

- Require the air ops unit to review and formalize its policies to ensure it has standard operational guidelines; clear lines of operational authority, responsibility; and, a formal regularly scheduled flight safety program.

- Implement a helicopter replacement program to ensure that helicopters are replaced when they are no longer economical to maintain or become inappropriate for the Department's needs.

Agency Response

The Department concurred with all our recommendations. However, the Department felt that the Bureau of State Audits either did not sufficiently emphasize or omitted certain issues of which they consider critical for improving the operational capabilities and effectiveness of its air ops unit. Specifically, the Department believes that its recent efforts to remedy some of the deficiencies of its aviation operation and the poor condition of the facility currently being replaced by a new temporary facility should receive additional acknowledgment.

The Los Angeles City Department of General Services that maintains the City's air fleet agreed with the comments. Additionally, it expressed concern that the inadequacies of the maintenance and repair facility will be compounded as the City ads larger, multi-bladed helicopters to its fleet.

99120 Child Protective Services: Agencies Are Limited in Protecting Children From Abuse by Released Inmates, December 1999

Assemblymember Sarah Reyes requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the State's process for sharing information about convicted child abusers. The Assemblymember is concerned that there may be an absence of communication between County and State agencies with respect to parole of a convicted child abuser.

Background

The California Department of Social Services (DSS) oversees child protective services provided by counties throughout the State. The DSS promulgates regulations for all counties to follow in their child welfare programs and monitors county compliance with those regulations.

The Child Abuse and Neglect Reporting Act mandates that certain individuals report by telephone known or suspected instances of child abuse to a child protective agency immediately or as soon as practically possible. The child protective agency can be the police or sheriff's department, a county probation department, a county welfare department, or a district attorney. The agency receiving the allegation or observing the child abuse must immediately notify the other appropriate agencies having jurisdiction over the case. Further, a written report must follow the telephone call within 36 hours.

Once a known or suspected child abuse instance is reported, several local and state agencies may be involved. All allegations must be investigated. If an allegation is substantiated, the local child protective agency must determine what action should be taken with respect to the victim(s). The seriousness and circumstances of the abuse determines which other agencies are involved. For example, if the abuse occurred at a school, the school district and county office of education are involved. If it occurred in a facility licensed to care for children by the DSS, the DSS must be notified. If a death occurred, the Department of Justice must be notified.

The law enforcement agency with jurisdiction must determine what actions it should take with respect to the offender. Under California's Penal Code, child abuse or neglect can be prosecuted as a criminal offense. If the alleged child abuser is convicted, the child abuser may be sentenced by the court to a prison term. The prison term is either determinate or indeterminate. Determinate terms are fixed terms of imprisonment and are established by statute. Once the prisoner has served the determinate term, he or she must be released from prison and placed on parole. An indeterminate sentence, is a term for which there is not fixed term of imprisonment, such as 15 years to life. Offenders sentenced to such terms must serve a minimum term before becoming eligible for a parole consideration hearing before the Board of Prison Terms (board). The board may impose special conditions of parole in addition to the general conditions, which are automatically placed on every parolee.

Audit Results

In January 1999, the body of Dustin Haaland, a 4-year-old boy allegedly killed by his father, was found in Fresno. The paroled father, who had been in prison for abusing the boy's older brother, was clearly a threat to his children, yet under current law, the California Department of Corrections (Corrections) was not obligated to notify Child Protective Services (CPS) of his release. However, even if CPS had known about the father's release, the agency might not have taken preventive action because it lacks clear authority to intervene without new allegations of abuse.

To have been in a position to prevent this tragedy, CPS would had to have known that the father was being paroled, seen the danger in the father's return, and had the authority to reopen its case to monitor the family. Such a scenario will only be feasible in the future if there are changes in information exchanges between law enforcement and CPS, and changes in CPS's ability to act in similar cases.

For CPS to have the opportunity to protect children from abuse by released inmates, law enforcement must allow the agency to inquire about past child abusers and share with CPS information about the release of any adults who pose threats to children. Under "Dustin's Law," named for Dustin Haaland, the 4-year-old boy slain in Fresno, parole agents must report to CPS if a parolee convicted of crimes against children contacts the victim or victim's family, and the parole agency must also notify local law enforcement when such parolees are released.

Dustin's Law, however, leaves CPS uninformed about these parolees' release. The agency first learns about released inmates when they break parole by contacting former victims, but by then the parolees may have committed further abuse. This recent legislation also says nothing about child abusers who may have been incarcerated for crimes other than those against children, or about abusers who receive probation. To be most effective, the various agencies must cooperate by identifying all inmates likely to be a risk to children, even if they have not been formally charged with or convicted of crimes against children.

In response to Dustin's death, Fresno County recently created a task force of staff from CPS, probation, and parole that seeks improved communication between CPS and law enforcement. The task force has been devising cooperative actions that will increase protection for children at risk by conducting more training and increasing communication and home visits.

Even if CPS had known of Dustin's father's release, it might not have removed the child from his home or taken other measures to protect the boy. Statutes and regulations governing the agency indicate there must be an allegation of child abuse before CPS takes any action. CPS staff, judges who handle child dependency cases, and staff of the Department of Social Services (Social Services), which oversees CPS, have varying opinions about whether CPS has the authority to intervene in the family of a parolee with a history of child abuse. Without an allegation of new abuse or a court order, the agency's

only recourse may be to convince such families to work voluntarily with CPS staff. Social Services also does not know what impact there will be on CPS since the number of inmates released from state and county incarceration that have abused children in the past is unknown.

To further protect vulnerable children, law enforcement agencies must do more to address the threat of child abuse. These agents and officers are required by law to report child abuse and are in a good position to monitor convicts who may be guilty of this crime. Therefore, parole agents and probation officers need more training to recognize abuse. Parole agents are authorized to order convicted child abusers away from children, yet do not always do so. Corrections must encourage its parole agents to consistently use this authority to improve the safety of vulnerable children.

Audit Recommendations

To more fully bridge the communication gap between CPS agencies and law enforcement, to clarify CPS's role in working with abuse victims, and to encourage more training for probation officers to effectively identify and report child abuse, the Legislature should:

- Amend Dustin's Law so that CPS receives offender release information.
- Make clear CPS's role so it can assess the risk that released offenders pose to children and intervene if that risk is high.
- Determine CPS's ability to share with members of law enforcement, such as parole agents and probation officers, information concerning child abusers.
- Provide CPS with the authority to offer input in determining the conditions of parole for an offender with a history of child abuse.
- Explore the feasibility of the State's 58 county probation departments releasing offender information to CPS.
- Use the Board of Corrections, the standard-setting body for probation officer training, as a point of contact to suggest that probation officers receive more training on how to identify and report child abuse.

Once the Legislature acts to amend and clarify the law to ensure that CPS has the information needed to identify paroled offenders who are known to have abused children:

- Corrections should make available to CPS release information for all offenders-regardless of their crimes.

- Social Services, in conjunction with the local CPS agencies, should develop guidelines for CPS on when and how to contact and monitor families where a released offender poses a harm to children.

Irrespective of legislative changes, to enhance the identification and prevention of abuse, Corrections' Parole and Community Services Division should:

- Always include an order restricting a child abusers unsupervised contact with minor children as a parole condition.

- Periodically train parole agents on how to identify and report all forms of child abuse.

Agency Response

Fresno County's CPS and Probation Department, and Tulare County's CPS all concur with the recommendations of the Bureau of State Audits. Social Services stated that the analysis is thorough but believes that between new legislation and modeling county CPS agencies' actions after Fresno County's task force, significant progress can be made toward protecting children from abuse and neglect. Corrections agreed with the recommendations for more training and prohibiting abusers from contacting their victims. However, Corrections believes caution should be used when determining how much information to share with CPS agencies.

99116 Water Replenishment District of Southern California, December 1999

Senator Martha Escutia requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the Water Replenishment District of Southern California (WRD). Specifically, Senator Escutia was concerned that the WRD may have abused its statutory authority in the manner it sets assessments and uses public funds.

Background

The WRD manages the groundwater in the Central and West Coast Groundwater Basins, which supplies water to approximately 3.5 million residents in 43 cities and within 420 square miles in southern Los Angeles County. The WRD was formed in 1959, after over-pumping caused many water wells to go dry and sea water intrusion to contaminate coastal groundwater. The WRD is responsible for maintaining adequate groundwater supplies, preventing seawater intrusion into the groundwater aquifers, and protecting groundwater quality against contamination.

An elected five-member board of directors governs the WRD, each representing a different geographical division. The Board appoints by a majority vote a secretary, treasurer, attorney, general manager, and auditor. It employs additional assistants and employees, as they deem necessary to efficiently maintain and operate the WRD. Further, the Water Code, Section 60230 gives the WRD certain powers to carry out its duties and responsibilities that include the authority to levy taxes, impose assessments and/or charges, fix the rates at which water is sold for replenishment purposes, and establish other rates for different classes of service or conditions of service.

Cities belonging to the WRD have raised numerous questions regarding the assessments imposed by the WRD and its use of public funds for inappropriate expenses, high contractor rates, and high staffing levels. Cities who have raised concerns include the Cities of Pico Rivera, Santa Fe Springs, South Gate, and Downey.

Audit Results

The WRD is authorized to collect an assessment on groundwater pumped from the basins to pay for its activities. Recently, the entities that pump water from the basins have criticized the WRD for substantially increasing its assessment and for how the WRD is spending money.

Every year the WRD overestimates the amount it needs to collect to pay for the water it buys to replenish the groundwater in these two basins. Over the past 10 years, the WRD has purchased considerably less water than it has estimated. Also, the WRD has not sufficiently taken into consideration its unused cash balance when estimating how much money it will need to collect through the assessment in a given year. As a result, by June 30, 1998, the WRD had accumulated approximately $67 million in its unreserved fund balances. Thus, not only have the annual assessments been too high, but the WRD also is maintaining more than it needs in its cash reserves. The WRD has stated that some part

of its cash reserves is needed to fund capital projects related to replenishment and clean water activities. However, it could not tell us how much, if any, of the $21 million in reserves in the Clean Water Fund and the $43.5 million in reserves in the Replenishment Fund has been set aside for capital projects. Furthermore, the WRD's process for determining the economic feasibility of one of its capital projects is flawed. As a result, this project may not save money, as the WRD originally projected.

Finally, the WRD has failed to maintain sufficient control over its administrative functions and spending. Although, the WRD's Administrative Code fails to provide sufficient policy guidance in certain areas, the WRD's board and staff have not always followed the guidance that was provided concerning issues such as contracting. As a result, the district may have spent too much on its contracts. It has reimbursed staff members for expenses without documentation that these expenses were work-related. In addition, the WRD has added new staff positions without providing adequate evidence that they are needed. Finally, we found that the WRD is obtaining services from 10 lobbying firms in fiscal year 1999-2000, which we believe to be excessive.

Audit Recommendations

The Bureau of State Audits recommends that the WRD amend the way it determines its assessment rate, to require that the prior year estimates be compared with the actual cost of the replenishment water it purchased and the cost of clean water activities. Any surplus should be used as carryover to reduce the subsequent year's assessment rate.

The WRD board should reassess its policy regarding a prudent reserve and reduce its target reserve to $10 million to more closely reflect its budgeted operations.

To improve the capital expenditure portion of its rate assessment, the WRD should determine the amount each capital project contributes to the annual rate. The board's resolution adopting the rate should specifically reference these amounts.

To improve its capital improvement's projects, the WRD should:

- Implement and refine a long-term plan.
- Standardize its policies and practices for preparing cost-benefit analyses and for budgeting capital projects.

On the Alamitos Barrier Recycled Water Project, the WRD should reevaluate the feasibility of this project using a cost-benefit analysis that includes a more reasonable assumption of future water costs.

On the West Coast Basin Desalination Program, the WRD should move expeditiously to petition the court to clarify the water rights issue. The subsidy from the Metropolitan Water District is dependent on this action.

To strengthen controls over its administrative expenses, the WRD's board should:

- Reaffirm its commitment to following the policies in its Administrative Code and ensure that its staff abides by its policies.
- Amend and expand its Administrative Code to incorporate additional guidelines related to contracting policies and procedures and limits on the expenses it will reimburse.
- Ensure that a valid contract is in place before paying for contracted services.
- Limit reimbursements to travel within a specific geographic area or require that travel out of the geographic area be brought before the board for specific action.
- Reassess its need for 10 legislative and public advocacy firms.
- Direct its independent auditor, as part of the annual audit, to review the propriety of the WRD's operating expenses.

Agency Response

The WRD fully agreed with five of the recommendations of the Bureau of State Audits. They conditionally agreed with two, and disagreed with four. The WRD believes that the remaining five recommendations reflect current WRD policy or practice. Further, the WRD disagreed with the basis for the analyses and conclusions related to the findings on the assessment rate-setting process, the reserve amounts, and the feasibility of the Alamitos Barrier Recycled Water Project.

99123 Los Angeles Unified School District: Its School Site Selection Process Fails to Provide Information Necessary for Decision Making and to Effectively Engage the Community, December 1999

Senator Richard Alarcon and Assemblymember Tony Cardenas requested that the Joint Legislative Audit Committee direct the Bureau of State Audits to conduct an audit of the Los Angeles Unified School District (LAUSD). Specifically, the audit was to determine whether LAUDS employs a standard site selection process, if the current practices are efficient, and if the LAUSD provides the opportunity for community input.

Background

The LAUSD has approximately 900 schools and centers that are divided into 27 clusters to serve more than 800,000 students. According to the LAUSD, its enrollment has grown by over 110, 000 students in the last decade and expects to add another 100,000 students before this decade is over. The LAUSD has employed several tactics to deal with increasing enrollment such as adding temporary, portable buildings, creating "multi-track year round" schools, and reconfiguring existing high schools. Further, the LAUSD transports many students everyday out of neighborhoods to less crowded schools.

Due to the size of the LAUSD and the increasing student enrollment, LAUSD seeks sites for new schools on a regular basis.

Audit Results

With hundreds of thousands of current students and an expanding enrollment, the LAUSD has recently started selecting sites for 96 new schools. Unfortunately, the process it uses to choose the locations for these schools does not ensure that the LAUSD will have the most appropriate and safest. In part, this is a result of the LAUSD's lack of information about potential school sites. The LAUSD has built 11 schools that are in close proximity to sites containing hazardous substances. LAUSD has also delayed or halted construction on 3 other schools on such sites and has built 2 more on sites known or suspected to have released hazardous materials.

At two key junctures in the LAUSD's decision-making process (the point at which LAUSD staff selects, and the Board of Education approves one preferred site for detailed study of its feasibility and the point at which the Board of Education approves a site for acquisition), the LAUSD has not collected and provided to the Board of Education sufficient data to render an informed decision. A review by the Bureau of State Audits and two independent investigations have found that LAUSD staff have underreported health and safety hazards and downplayed the results of environmental reports.

Although, the LAUSD has identified sites for nearly half of the 96 schools it plans to build, it has not sufficiently involved the schools' respective communities in its site selection process. Further, the LAUSD's staff and Board of Education have not gathered or evaluated sufficient information to evaluate the prospective sites. Because it

encompasses a largely urban area with little undeveloped land, the LAUSD faces many challenges when it looks for locations suitable for the construction of new schools that will provide a safe environment for children and LAUSD employees. However, the LAUSD has not handled these challenges as well as they could have.

For example, during its site selection process, the LAUSD does not effectively solicit community comments, recommendations, and support. The LAUSD has not sufficiently included the public when evaluating alternative sites, which has angered community members and delayed the selection of some sites. Moreover, for nearly half of the 51 school projects identified in the LAUSD's 1998 master plan, the LAUSD used an expedited site selection process that did not involve the community at all. Therefore, the LAUSD has missed opportunities to get valuable site suggestions, obtain information about the neighborhoods surrounding prospective school sites, and deflect community discontent. When it has sought public involvement, the LAUSD has limited or delayed this participation, so that the community has had little opportunity to change the course of the project. The LAUSD has announced that in the future it will use facilitators trained in community outreach to work with the community when selecting school sites.

Although the LAUSD has recently taken steps to avoid acquiring unsafe sites, it is too early to tell whether these changes will ensure that school sites acquired in the future are suitable and safe. The Bureau of State Audits found that the LAUSD needs to improve its documentation and the communication among its branches involved in the site selection process to make sure that all steps in the process take place and that the LAUSD and its Board of Education are accountable to the public for the decisions they make.

Audit Recommendations

To ensure that it evaluates proposed sites thoroughly and recommends the best sites for feasibility studies, the Bureau of State Audits suggest that the LAUSD do the following:

- Revise its site selection guidelines to include all applicable site selection criteria recommended by the CDE.

- Conduct a limited environmental assessment of all alternative sites to assess the safety of the sites before the LAUSD's staff recommends a site for feasibility studies.

- Obtain better cost estimates for all alternative sites by estimating business relocation costs; costs for site preparation, including remediation expenses; and ongoing maintenance costs, including the cost of environmental monitoring systems (if applicable).

To ensure that school sites selected for acquisition are safe, the Bureau of State Audits recommends that the LAUSD do the following:

- Continue to submit environmental reports to the Department of Toxic Substances Control for review, as it has since January 1999.

To effectively involve the community in the site selection process, the Bureau of State Audits recommends that the LAUSD take the following steps:

- Eliminate the use of the expedited process and always hold a community meeting before selecting a preferred site for feasibility studies.

- Improve the notification process for the initial community meeting by notifying homeowners associations, owners of commercial and rental property, and residents of the study area, by notifying invitees of the meeting at least one week in advance.

- Include community representatives on the site selection team.

To be accountable for the site selection process, the Bureau of State Audits recommends that the LAUSD do the following:

- Develop project timelines and a checklist that includes all the steps in the site selection process and use them as tools to better coordinate the process among all the branches involved and ensure that all steps are completed.

Agency Response

The chief operating officer for the LAUSD is in agreement with the findings of the Bureau of State Audits and is fully committed to ensuring the implementation of all recommendations outlined in the report.

99101 Downey Community Hospital Foundation

Senator Betty Karnette has requested an audit of a lease agreement between the City of Downey (City) and the Downey Community Hospital Foundation (Hospital) for the land in which the hospital sits. Specifically, Senator Karnette is concerned that the City has leased the property for much less than its market value and is uncertain whether the Hospital is complying with the lease agreement. The Senator would like to ensure that public funds are used ethically and legally.

Background

The Downey Community Hospital is located in Los Angeles County and is a 151-bed private, nonprofit general hospital built on City property. In 1967, the City and the County of Los Angeles entered into a Joint Powers Agreement for creating the City of Downey Community Hospital Authority for constructing and maintaining a general hospital within the City. In 1968, the City leased to the Hospital the general hospital and property for a term of 35 years. In 1983, the Hospital paid off the bonds and signed a 55-year lease allowing it to use the City's land and facilities for $1 a year. The Hospital's lease agreement specifies that the hospital will have at least a 15-member board of directors, with the Mayor, City Council, and the City Manager serving as ex officio (nonvoting) members.

During 1998, the citizens of Downey have raised many concerns related to the Hospital's compliance with the lease and allegations that some of its actions may violate state law. Senator Karnette is concerned that the City has provided wide support to the hospital, including leasing the land for significantly less than its market value, yet is unsure that the hospital provides the City with sufficient information to show it is complying with the lease agreement.

Audit Scope and Objectives

This audit by the Bureau of State Audits will provide independently developed and verified information relative to the lease agreement between the City of Downey and the Downey Community Hospital Foundation and would:

1. Review and evaluate the laws, rules, and regulations relevant to the issues;

2. Determine the roles, responsibilities, and authority of the City, Hospital, and any oversight entities with regards to the lease agreement;

3. Determine whether the Hospital has complied with the provisions of the lease agreement;

4. Review any Hospital records and documents as deemed necessary and per the provisions of the lease; and,

5. Investigate any allegations and discrepancies that are within the bureau's authority.

99111 Vocational Rehabilitation Program

Senator's Hilda Solis, Wesley Chesbro, Ray Haynes, Deborah Ortiz, and Cathie Wright have requested a programmatic and fiscal audit of the Department of Rehabilitation's (DOR) Vocational Rehabilitation program. They are concerned about the increasing costs to serve clients, consistency among regional offices, potential benefits of using existing services, and the effectiveness of DOR's cooperative agreements used to target historically underserved populations.

Background

The DOR's Vocational Rehabilitation program delivers basic vocational rehabilitation services to the disabled community through three regional (Northern, Los Angeles/Orange Counties, and Southern) and branch offices within each region. A number of cooperative agreements with state and local agencies (educational institutions, hospitals, and mental health treatment facilities) assure specialized services to particular target groups among this population. Federal and state laws require an Order of Selection be used to determine the order in which individuals with disabilities will be provided when a State vocational rehabilitation agency does not have sufficient funds to serve all eligible individuals who apply for service. The DOR operates under an Order of Selection process and thus, gives priority to clients with the most severe disabilities.

Recently, several issues were raised at one of the hearings from Subcommittee No. 3 of the Senate Committee on Budget and Fiscal Review. The senators are concerned about the management and fiscal practices within the Vocational Rehabilitation program. Since 1995, the average cost to serve clients has increased from $900 to $1,900 per client. The rising costs may be attributable in the past to the increasing severity of client disabilities however, the senators are concerned about controllable cost factors that may exacerbate the situation. Further, the level and consistency of services between regions are also of concern.

Audit Scope and Objectives

This audit by the Bureau of State Audits will provide independently developed and verified information relative to the DOR's Vocational Rehabilitation program and would:

1. Review and evaluate the laws, rules, and regulations relevant to the issues;

2. Review the services provided by the regional and branch offices to assess whether the services provided are consistent amongst the offices, accessible by their clients, and are in line with program objectives and goals;

3. Calculate the average program's cost to serve clients over the last four years and assess reasonableness;

4. Review the program's client population and determine if the program serves a wide range and diverse population and has been effective, in conjunction with partner agencies, in targeting historically underserved populations;

5. Determine whether the department identifies and seeks other existing services (such as scholarship programs for higher education) rather than relying on vocational rehabilitation funds; and

6. Review the program's turnover rate and the reasons thereof, and determine whether is has affected program goals.

99116 Water Replenishment District of Southern California

Senator Martha Escutia requested an audit of the Water Replenishment District of Southern California. Specifically, the Senator is concerned that the district may have abused its statutory authority in the manner it sets assessments and uses public funds.

Background

The Water Replenishment District of Southern California (district) manages the groundwater in the Central and West Coast Groundwater Basins, which supply water to approximately 3.5 million residents in 43 cities and within 420 square miles in southern Los Angeles County. The district was formed in 1959 when over-pumping caused many water wells to go dry and sea water intrusion to contaminate coastal groundwater. The district is responsible for maintaining adequate groundwater supplies, preventing seawater intrusion into the groundwater aquifers, and protecting groundwater quality against contamination.

An elected five-member board of directors governs the district, each representing a different geographical division. The board appoints by a majority vote a secretary, treasurer, attorney, general manager, and auditor and employs additional assistants and employees, as they deem necessary to efficiently maintain and operate the district. Further, the Water Code, Section 60230 gives the district certain powers to carry out its duties and responsibilities that include the authority to levy taxes, impose assessments and/or charges, fix the rates at which water is sold for replenishment purposes, and establish other rates for different classes of service or conditions of service.

Four cities that belong to the district—Pico Rivera, Santa Fe Springs, South Gate, and Downey—have raised numerous questions regarding the assessments imposed by the district and its use of public funds for inappropriate expenses, high contractor rates, and high staffing levels. The senator is concerned with allegations that indicate that the district has accumulated surplus funds of nearly $70 million while assessment charges have increased significantly over the last eight years.

Audit Scope and Objectives

This audit by the Bureau of State Audits will provide independently developed and verified information relative to the Water Replenishment District and would:

1. Review and evaluate the laws, rules, and regulations relevant to the issues;

2. Review the manner in which the district determines, evaluates, and approves assessments, taxes, or other charges it imposes;

3. Review the charges imposed over the last eight years and determine whether the amounts assessed appear justified;

4. Examine the district's expenditures and determine whether they are appropriate and reasonable;

5. Review a sample of the district's contracts to determine whether the district complied with the Public Contract Code and if contract amounts are reasonable;

6. Review the district's staffing levels and compensation packages, and determine whether they are comparable to other replenishment districts; and

7. Investigate specific allegations raised by the cities.

99117 Public Utilities Commission

Senator Steve Peace has requested an audit of the contracting activities of the California Public Utilities Commission (commission).

Background

The five-member commission regulates the rates and services of utility and transportation companies in California that are privately owned and operated. Specifically, it regulates about 3,300 transportation companies and 1,264 telecommunications, energy, and water utilities. The investor-owned utilities it regulates includes natural gas, electric, water, steam, sewer, pipeline, and local telephone companies.

In the course of fulfilling its responsibilities, the commission may determine it needs to enter into contracts for goods or services. Senator Peace is concerned about irregularities with the commission's contracting activities due to questions that were raised in recent hearings in the Senate Budget Subcommittee #5.

Audit Scope and Objectives

This audit by the Bureau of State Audits will provide independently developed and verified information relative to the commission's contracting practices and would:

1. Review and evaluate the laws, rules, and regulations relevant to the issues;

2. Determine how the commission identifies the need to enter into a contract and how it develops the scope of work to be performed;

3. Review the commission's methods for ensuring the scope of work has been completed, meets the agency's needs, and is cost-effective;

4. Review a number of contracts to determine whether the commission complies with the Public Contract Code, including competitive bidding, sole-source requirements, contract evaluations, and whether conflicts of interest exist; and

5. Review the patterns of contracts, including whether the same contractors tend to be used and the extent to which follow-up contracts or continued engagement result from the recommendations or findings in contract reports.

99121 Department of Education- Audits and Investigations Division

Senator James Brulte requests an audit of the California Department of Education's (department) Audits and Investigation Division (division). Specifically, the senator would like to determine whether the division is appropriately structured to audit and monitor all state and federal programs within the department.

Background

California's public education system is administered by the Department of Education (department), under the direction of the State Board of Education and the Superintendent of Public Instruction, to educate approximately 5.5 million students from infants to adulthood. With a proposed budget of $38 billion for fiscal year 1999-00, the department will administer approximately 52 federal programs and numerous state programs. The department manages the state administration aspects of the programs through its eight branches.

The department's Audits and Investigation Division (division) is responsible for auditing and monitoring state and federal programs administered by the department. Approximately 37 staff conducts and reviews audits and perform investigations designed to protect the integrity of programs and services administered by the department.

In 1998, the U.S. Department of Education's Office of the Inspector General (OIG) initiated an investigation of federally funded adult education English as a second Language/Citizenship Services regarding the possible misuse of public funds. In addition, a recent OIG report identified a high incidence of fraud and abuse in the Child and Adult Care Food Program and concluded that the department had been negligent in its administration of the program. The report also concludes that the department improperly charged the federal government for unsupported audit costs totaling $5.5 million. In response to some of the findings of the report, the department has recently restructured the division.

Due to the combination of alleged abuses, Senator Brulte believes a review of the department is necessary. He is concerned with the department's ability to oversee and monitor all of the state and federal programs.

Audit Scope and Objectives

This audit by the Bureau of State Audits will provide independently developed and verified information relative to California Department of Education's Audits and Investigations Division and would:

1. Review and evaluate the laws, rules, and regulations relevant to the issues;

2. Determine what role the division takes in fulfilling the department's oversight and monitoring responsibilities for the state and federal programs it administers;

3. Assess whether the department's current structure allows the audits and investigation division to effectively oversee and monitor the programs administered by the department;

4. Review the division's practices and procedures and determine if they comply with state and federal laws and are effective in ensuring program compliance, detecting noncompliance, reporting inappropriate activities, enforcing compliance, and following up on issues and findings; and

5. Determine what actions the department has taken as a result of federal investigations.

99123 L.A. Unified School District – School Site Selection

Senator Richard Alarcon and Assemblymember Tony Cardenas have requested an audit of the Los Angeles Unified School District's (LAUSD) process for selecting school sites. Specifically, the audit would determine whether the LAUSD follows appropriate procedures in selecting the sites and whether these procedures are acceptable practices.

Background

The LAUSD has approximately 900 schools and centers that are divided into 27 clusters to serve more than 800,000 students. According to the LAUSD, its enrollment has grown by over 110,000 students in the last decade and expects to add another 100,000 students before this decade is over. The district has employed several tactics to deal with the increasing enrollment such as adding temporary, portable buildings; creating "multi-track year round" schools; and reconfiguring existing high schools. Further, the district transports many students every day out of their neighborhoods to less crowded schools.

Because of the size of the school district and the increasing student enrollment, the district reportedly seeks sites for new schools on a regular basis. Senator Alarcon and Assemblymember Cardenas are concerned that the district may not employ standard site selection processes, that current practices are not as efficient and reasonable as could be, and that the district may not provide opportunity for community input.

Audit Scope and Objectives

This audit by the Bureau of State Audits will provide independently developed and verified information relative to the Los Angeles Unified School District (LAUSD) school site selection process and would:

1. Review and evaluate the laws, rules, and regulations relevant to the issues;

2. Review the school district's long-range and short-range plans for dealing with increasing enrollment;

3. Review the LAUSD's policies for identifying the need for acquiring and constructing school sites; prioritizing projects; surveying, evaluating, and selecting school sites; and assessing the cost benefit of the projects;

4. Determine whether such policies are appropriate and economical, allow for community input, and have been adequately communicated to relevant parties;

5. Review a sample of school sites (completed, in progress, and pending) to determine whether the district consistently applies these policies and procedures; and

6. Review any available reports about site selection processes and compare them to those used by the LAUSD.

99124 San Francisco Public Utilities Commission

Assemblymembers Papan and Lempert have requested an audit of the San Francisco Public Utilities Commission (SFPUC). Specifically, they would like the audit to focus on the Hetch Hetchy water delivery system and the methods employed by the SFPUC to assure an adequate long-term reliable water supply for the residents of the South Bay, Peninsula, and San Francisco.

Background

The SFPUC, which is governed by five members appointed by the Mayor, is a sub-division of the City and County of San Francisco. It provides retail drinking water and sewer services to San Francisco, wholesale water to three other Bay Area counties, and hydroelectric power to for city government operations. To fulfill its responsibilities, the SFPUC has 13 operating divisions and support bureaus, one of which is Hetch Hetchy Water and Power.

Hetch Hetchy Water and Power is responsible for operating and maintaining a system of five dams, three hydroelectric plants, three mountain reservoirs, pipelines and transmission lines located in and adjacent to Yosemite National Park. Water is piped more than 150 miles from watersheds in the Sierra Mountains and the Stanislaus National forest to the Bay Area for ultimate distribution to San Francisco customers. Additionally, electric power generated is sent over hundreds of miles of transmission lines to PG&E's transmission grid in Hayward for ultimate distribution in San Francisco. Further, its high water quality is the largest unfiltered water supply on the West Coast. The Hetch Hetchy system is designed to ultimately meet peak demand of 400 million gallons a day.

Construction of the Hetch Hetchy system began in 1914. The first water reached the Bay Area in 1934. Assemblymembers Papan and Lempert are concerned with the reliability of the Hetch Hetchy system and whether it could sustain an earthquake.

Audit Scope and Objectives

This audit by the Bureau of State Audits will provide independently developed and verified information relative to the SFPUC and would:

1. Review and evaluate the laws, rules, and regulations relevant to the issues;

2. Determine whether the SFPUC has taken appropriate measures to assess the reliability of the Hetch Hetchy system including developing a long-range plan;

3. Review the projects, repairs, and upgrades the SFPUC has identified and determined necessary and ensure they are logically included in the long-range plan with anticipated completion dates;

4. Determine how the SFPUC prioritizes, plans, manages, and completes its projects and determine the commission's performance in project management and completion;

5. Determine how the commission funds its capital projects and whether the commission has identified funding sources for projects related to the Hetch Hetchy system; and

6. Review the commission's financial forecast and determine whether they have considered all relevant factors including water rates.

99127 Los Angeles Housing Opportunities for Persons with Aids Program

Senator Tom Hayden has requested an audit of the Los Angeles Housing Opportunities for Persons with AIDS Program. The senator is concerned that federal government may withdraw unspent funds because the city has mismanaged the program.

Background

The Housing Opportunities for Persons With AIDS (HOPWA) is a federal program that provides housing assistance and support services for low-income and homeless persons with AIDS and their families. Since fiscal year 1993-94, the City of Los Angeles receives the HOPWA funds and is responsible for coordinating the program for the benefit of qualified residents living in the County of Los Angeles.

On October 12, 1994, the Los Angeles City Council adopted bylaws for the Los Angeles Countywide HOPWA Advisory Committee to guide the HOPWA program on a countywide basis. This committee was originally formed by the county to ensure a broad-based group, with expertise in many AIDS-related areas, had input in allocating funds in a fair manner. The oversight committee is composed of 23 members, each serving two years, from various city, county, and AIDS organizations. There are four at-large members who must be HIV positive. Staff support is provided by the Los Angeles Housing Department. The city council must approve all contracts for the use of HOPWA funds.

Senator Hayden is concerned with how the HOPWA program is managed and with the numerous questions that were raised in 1998 about uncommitted funds of approximately $17 million. A recent report by the City Controller of Los Angeles disclosed that a significant amount of unspent funds remained from prior years' grants and that the city could be in jeopardy of losing funds from 1996. The senator is concerned with the threat of losing funds while many residents with AIDS continue to need housing.

Audit Scope and Objectives

This audit by the Bureau of State Audits will provide independently developed and verified information relative to the City of Los Angeles' Housing Opportunities for Persons With AIDS program and would:

1. Review and evaluate the laws, rules, and regulations relevant to the issues;

2. Determine the roles and responsibilities of the various entities involved in the HOPWA program and determine whether there are conflicts of interest;

3. Review the manner in which the program is managed and determine whether the processes that are in place are efficient and instrumental in achieving the goals of the program;

4. Determine the total federal funds received since 1993 and whether the funds were committed and used as required by the federal government; and

5. Review the city's short- and long-term plans and assess whether they are reasonable and provide the city with an adequate plan to carry out its responsibilities and meet program.

99130 Grant Joint Union High School

Senator Deborah Ortiz has requested a comprehensive performance audit of the Grant Joint Union High School District. Senator Ortiz is concerned that the district is being mismanaged and spending funds inappropriately.

Background

The Grant Joint Union High School District (district) is directed by a five-member elected board of trustees who hire a superintendent and serves approximately 12,000 students in grades 7 through 12. It is located in northern Sacramento County and encompasses both urban and rural communities. The district is comprised of six high schools, five junior high schools, and three adult and special education centers.

Since fiscal year 1982-83, the district has undergone several Sacramento County Grand Jury investigations and a more recent review by the Grant Select Commission, a diverse group of 13 individuals from within and outside of the district community called together by a Sacramento County Supervisor and City Councilmember. Further, since 1997, two superintendents have left or been removed before completing their full contracts. Recently, the Grant Select Commission and the leaders of North Sacramento elementary school districts have called for the district's dissolution. In addition, Senator Ortiz has been informed by parents that part of the district's Voluntary Integration Program funds, which are designed to mitigate the effects of racial isolation and improve overall academic performance, may have been used to pay for other activities.

Audit Scope and Objectives

This audit by the Bureau of State Audits will provide independently developed and verified information relative to Grant Joint Union High School District and would:

1. Review and evaluate the laws, rules, and regulations relevant to the issues;

2. Review the district's goals and objectives to determine whether they are properly aligned with its mission;

3. Review the district's business and personnel practices to determine whether they included appropriate control oversight;

4. Determine if the district has proper fiscal control and fund accounting procedures, whether the procedures are adequately communicated and understood by staff, and whether they are adhered to;

5. Review the district's budgeting and forecasting process and determine how it monitors expenditures and enforces compliance with its budget;

6. Determine whether the district's expenditures are appropriate, reasonable, and within budget;

7. Determine what measures management has taken in response to independent audit reports and other investigations conducted; and

8. Investigate specific allegations made regarding inappropriate uses of funds.

99131 Department of Education – Star Testing Program

Chairman Scott Wildman has requested an audit regarding the implementation and execution of the Standardized Testing and Reporting (STAR) testing. Specifically, the chairman would like an analysis of methods used by the State Board of Education (board) and the Superintendent of Public Instruction in contracting for the implementation of the STAR program.

Background

In October 1997, Senate Bill 376 authorized the STAR program, requiring school districts in California to test all students in grades 2 through 11, inclusive. The board designated Harcourt's *Stanford Achievement Test* Series, Ninth Edition, Form T (Stanford 9), as the 1998 STAR test, based on the recommendation made by the State Superintendent of Public Instruction. The Stanford 9 is a multiple-choice test, distributed and scored by Harcourt Educational Measurement, that allows comparisons to be made on a national sample of students. Each district was required to enter into a standard agreement (developed by the board) with Harcourt in order to schedule when the testing would occur in the district.

Reportedly, errors in the initial 1999 STAR reports in both the group and individual student results delayed the Internet posting of state, county, district, and school results on June 30 as required by statute. Recent testimony presented to the Assembly Budget Subcommittee on Education Finance indicated that problems existed in how the STAR tests were distributed to various school districts. Assemblymember Wildman is concerned that the STAR tests may have been administered inefficiently, and that the contractor's performance may not have achieved the desired goals.

Audit Scope and Objectives

This audit by the Bureau of State Audits will provide independently developed and verified information relative to the handling of the STAR testing in California and would:

1. Review and evaluate the laws, rules, and regulations relevant to the issues;

2. Determine the roles of the State Board of Education, the Department of Education, and the school districts in selecting the test to be used in the STAR program and in contracting for the administration of the test;

3. Determine how the districts negotiated and executed the contracts with Harcourt and assess the appropriateness and efficiency;

4. Review contract terms, conditions, scope, and deliverables to determine whether the contractor fulfilled their obligations;

5. Determine how the department or districts assessed the quality of the contractor's work to ensure their performance and product usefulness and accuracy; and

6. Determine whether the State was effective in meeting the desired goals of the STAR program.

99133 County Veterans Services Officers

Assemblymember Richard Floyd has requested an audit of the County Veterans Service Officers (CVSO) program, which is jointly operated by the California Department of Veterans Affairs and a number of California county governments. Specifically, the Assemblymember would like to determine whether the program provides cost-effective assistance to California veterans.

Background

The California Department of Veteran's Affairs (department) is responsible for providing comprehensive aid to veterans and their dependents. The department's primary objectives include:

- Assisting veterans and their families with presenting their claims for veterans' benefits under federal law.
- Offering veterans direct low-cost loans to acquire farms and homes.
- Providing support for California Veterans Homes.

The 1999-2000 budget allocates approximately $351 million to enable the department to meet these objectives. Of this amount, nearly $3.5 million comes from the State General Fund, federal funds, Veterans License Plate Program, and county funds and is dedicated to the Veterans Service Office Program. This program provides assistance to veterans and the dependents of deceased veterans in presenting and pursuing any claim the veteran may have against the United States. It also assists establishing the veteran's right to any privilege, preference, care, or compensations provided for by federal or state laws.

To administer the Veterans Service Office Program, the department cooperates with a number of County Veterans Service Offices (CVSOs). The CVSOs are established to assist veterans in pursuing claims before the federal Department of Veterans Affairs, provide a local source of information for veterans, and perform any other veteran related services requested by the County Board of Supervisors. In addition, the department certifies service organizations that also provide assistance to veterans in seeking federal claims.

Audit Scope and Objectives

This audit by the Bureau of State Audits will provide independently developed and verified information relative to the CVSO program and would:

1. Review and evaluate the laws, rules, and regulations relevant to the issues;

2. Determine how the CVSO program is funded and administered, and determine how the department distributes the funds and ensures that such funds are used in accordance with state and federal laws, rules, and regulations;

3. Determine how the department and the CVSOs assess their performance;

4. For a sample of CVSOs located in counties with a significant military veteran population:

   - Compare staffing levels, workload activity, scope of services, and other performance indicators, over the last two fiscal years, to determine whether the program impacts services to veterans;

   - Determine whether services provided by the CVSOs result in identifiable cost savings to the federal government, the counties or the state and compare actual cost savings over the last two fiscal years to determine whether any budget increases affected any cost savings realized;

5. Identify the primary resources available to California veterans for filing federal claims and determine how the CVSOs utilize these resources; and

6. Evaluate the department's process for certifying service organizations.

Appendix A

Joint Legislative Audit Committee
Authority, Rules and Procedures Adopted March 5, 1994

Authority

1. The Joint Legislative Audit Committee is created pursuant to Government Code Section 10501. The Committee shall consist of seven members of the Senate and seven members of the Assembly selected in the manner provided for in the Joint Rules of the Senate and Assembly. (G.C. 10502)

2. The Chair of the fiscal committee for the Senate and the Chair of the fiscal committee of the Assembly shall be members of the Joint Legislative Audit Committee. (Joint Rules of the Senate and Assembly, 37.3)

3. Four members from each house constitute a quorum and the number of votes necessary to take action on any matter. (Joint Rules of the Senate and Assembly, 37.3)

4. The Committee is authorized to make rules governing its own proceedings, (G.C. 10503) and shall elect its own chair. (G.C. 10502)

5. The State Auditor shall conduct any audit of a state or local governmental agency that is requested by the Committee to the extent that funding is available and in accordance with the priority established by the Committee. (G.C. 8546.1)

6. Any member of the Legislature may submit requests for audits to the Committee for its consideration and approval. Any audit request approved by the Committee shall be forwarded to the State Auditor as a Committee request. (G.C. 8546.1)

Rules and Procedures

7. Upon receipt of an audit request from a member of the Legislature, the Chair shall transmit the request to the State Auditor for the purpose of determining the feasibility, scope and cost of performing the proposed audit.

8. The State Auditor will prepare an analysis of the audit request, including the feasibility, scope and cost of the audit, and transmit the analysis to the Committee Members.

9. No action shall be taken on an audit request until such time as the Committee has reviewed the request and the State Auditor's analysis in an open meeting of the Committee. The Legislator requesting the audit, or his/her authorized representative, will be invited to appear at the hearing to submit reasons for approving his/her request.

10. The Committee shall consider each request and either: 1) approve it, 2) deny it, or 3) place it on hold for future consideration. The Chair shall notify each requester of the Committee's decision after the open meeting.

11. For all approved audits, the Committee shall set priorities for the State Auditor considering the extent that funding is available.

12. To assist the Committee in ranking and prioritizing approved audits, the State Auditor shall periodically provide a schedule of available funding for request audits throughout the fiscal year.

13. An audit request placed on hold by the committee and not acted upon before the end of the regular two-year session of the Legislature shall automatically be deemed denied. The Chair shall contact each requester whose audit request has been thus denied and notify them that the audit request can be resubmitted to the Committee during the next regular session.

14. Notwithstanding Rule 9, an audit request of an urgent nature received during interim or recess may be approved with the concurrence of the Chair and Vice Chair, provided that the audit's cost shall not exceed $50,000 and that the audit shall not commence until five working days after the Committee members have been notified in writing of the audit's approval.

a. Audit requests in excess of $50,000 received during interim require approval through an open meeting of the Committee as described in Rule 9.

b. If any Committee member objects to an audit request approved pursuant to Rule 14 within the five working days, the audit shall be placed on hold until the next regular open meeting of the Committee.

15. The State Auditor shall conduct all audits pursuant to Government Code Section 8546 and release the completed audit report to the Governor, Legislature, members of the Joint Legislative Audit Committee, other Legislative Committees and the requester.

16. Any Committee member may request a public hearing to discuss the State Auditor's completed report. Upon receiving such a request, the Chair shall schedule a public hearing at a reasonable time and location and inform each Committee member. The official whose office is the subject of the audit, the requester, the State Auditor or any other person may be summoned by the Chair to appear at the hearing and provide testimony.

17. The Chair may appoint subcommittees and hold hearings as a full committee or subcommittee concerning state financial and program issues and conduct business at any place within the state, during the sessions of the Legislature or any recess thereof, and in the interim period between sessions.

18. The Committee, subcommittees, Committee members and their staff may review State Auditor reports and take action thereon, ascertain facts and perform other special studies as directed by the Chair.

19. The Committee may sponsor whatever legislation it deems appropriate to carry out its mission and testify during Legislative deliberations on these measures.

20. The Committee may track legislation affecting the funding or workload of the State Auditor or Joint Legislative Audit Committee and testify as needed. The Committee may also participate in budget and fiscal hearings regarding the State Auditor's budget and funding.

21. Pursuant to Joint Rules 37.4 and 37.5, the Committee shall review all bills or resolutions assigning a study to the Committee or State Auditor and request an appropriation to fund the audit or waive this requirement as appropriate.

Appendix B

Government Code Sections Relating to the Joint Legislative Audit Committee

10500. It is the desire of the Legislature to create the Office of the Auditor General, whose primary duties shall be to perform performance audits as may be requested by the Legislature. The authority of the office under the direction of the Joint Legislative Audit Committee is confined to examining and reporting and is in no way to interfere with adequate internal audit to be conducted by the executive branch of the government or the state audit or other audits required by statute to be performed by the State Auditor. The Legislature also finds that a significant portion of the state budget consists of subventions to local governments and, therefore, oversight capability necessary to determine funding priorities and to evaluate the efficiency and necessity of state-supported local programs and state programs administered by local governments.

10501. The Joint Legislative Audit Committee is hereby created. The committee shall determine the policies of the Auditor General, ascertain facts, review reports and take action thereon, and make reports and recommendations to the Legislature and to the houses thereof concerning the state audit, the revenues and expenditures of the State, its departments, subdivisions, and agencies whether created by the Constitution or otherwise, and such other matters as may be provided for in the Joint Rules of the Senate and Assembly. The committee has a continuing existence and may meet, act, and conduct its business at any place within this State, during the sessions of the Legislature or any recess thereof, and in the interim period between sessions.

10502. The committee shall consist of seven Members of the Senate and seven Members of the Assembly who shall be selected in the manner provided for in the Joint Rules of the Senate and Assembly. The committee shall elect its own chairman. Vacancies occurring in the membership of the committee between general sessions of the Legislature shall be filled in the manner provided for in the Joint Rules of the Senate and Assembly. A vacancy shall be deemed to exist as to any member of the committee whose term is expiring whenever such member is not reelected at the general election

10503. The committee is authorized to make rules governing its own proceedings and to create subcommittees from its membership and assign to such subcommittees any study, inquiry, investigation, or hearing which the committee itself has authority to undertake or hold. The provisions of Rule 36 of the Joint Rules of the Senate and Assembly relating to investigating committees shall apply to the committee and it shall have such powers, duties and responsibilities as the Joint Rules of the Senate and Assembly shall from time to time prescribe, and all the powers conferred upon committees by Section 11, Article IV, of the Constitution.

10504. After recommendation by the committee, the Auditor General shall be selected by concurrent resolution and shall serve until his or her successor is selected or until his or her removal by concurrent resolution. When the Legislature is not in session, the committee may suspend the Auditor General until the Legislatures reconvenes. When there is a vacancy in the office of Auditor General, the Chairman of the Joint Legislature Audit Committee shall select an acting Auditor General until an Auditor General is selected by the Legislature. The committee shall fix the salary of the Auditor General, deputies, and staff. The funds for the support of the committee shall be provided from the Contingent Funds of the Assembly and Senate in the same manner that those funds are made available to other joint committees of the Legislature.

10520. The Auditor General shall only conduct audits and investigative audits approved by the Joint Legislative Audit Committee. Any provision of law directing the Auditor General to conduct an audit or investigative audit shall be deemed a request to the Joint Legislative Audit Committee to direct the Auditor General to undertake that audit or investigative audit. Once an audit or investigative audit is approved, the Auditor General shall complete the audit or investigative audit in a timely manner and in accordance with the "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" issued by the Comptroller General of the United States. Immediately upon completion of an audit, the Auditor General shall transmit a copy of the audit report to each member of the Joint Legislative Audit Committee.

10521. The Auditor General, prior to his or her selection, shall possess a combination of education and experience which in the opinion of the Legislature is necessary to perform the duties of his or her office.

10522. The Auditor General shall be paid the salary fixed by the Joint Legislative Audit Committee and shall be repaid all actual expenses incurred or paid by him or her in the discharge of his or her duties.

10523. The Auditor General may employ and fix the compensation, in accordance with Section (4) of Article VII of the Constitution, of such professional assistants and clerical and other employees as he or she deems necessary for the effective conduct of the work under his or her charge. The Auditor General and his or her employees are legislative employees for purposes of Sections 20364, 11032, 11033, 11041, and 18990, and for purposes of the "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" issued by the Comptroller General of the United States.

10524. The permanent office of the Auditor General shall be in Sacramento, where he or she shall be provided with suitable and sufficient offices. When in his

or her judgment the conduct of his or her work requires, he or she may maintain offices at other places in the state.

10525. The Auditor General shall not destroy any papers or memoranda used to support a completed audit sooner than three years after the audit report is released to the public. All books, papers, records, and correspondence of the Auditor General's office pertaining to its work are legislative records subject to Article 3.5 (commencing with Section 9070) of Chapter 1.5 of Part 1 and shall be filed at any of the regularly maintained offices of the Auditor General, except that none of the following items shall be released to the public by the Auditor General or his or her employees:

(a) Personal papers and correspondence of any person receiving assistance from the Auditor General when that person has requested in writing that his or her papers and correspondence be kept private and confidential. Those papers and correspondence shall become legislative records upon the order of the Auditor General or the Legislature or if the written request is withdrawn.

(b) Papers, correspondence, or memoranda pertaining to any audit or investigation not completed, when in the judgment of the Auditor General, disclosure of those papers, correspondence, or memoranda will impede the audit or investigation.

(c) Papers, correspondence, or memoranda pertaining to any audit or investigation which has been completed, which papers, correspondence, or memoranda are not used in support of any report resulting from the audit or investigation. The amendment of this section made at the 1981-82 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

10526. It is a misdemeanor for the Auditor General or any employee or former employee of the office to divulge or make known in any manner not expressly permitted by law to any person not employed by the Office of the Auditor General, any particulars of any record, document, or information the disclosure of which is restricted by law from release to the public. This prohibition is also applicable to any person or business entity which is contracting with or has contracted with the Auditor General and to the employees and former employees of that person or business entity or the employees of any state agency or public entity which has assisted the Auditor General in the course of any audit or investigative audit or which has been furnished a draft copy of any report for comment or review.

10527. (a) Notwithstanding any other provision of law, the Auditor General during regular business hours shall have access to, and authority to examine and reproduce, any and all books, accounts, reports, vouchers, correspondence files, and other records, bank accounts, and money or other property, of any agency of the state, whether created by the Constitution or otherwise, and any public entity, including any city, county, and special district which receives state funds, and it shall be the duty of any officer or employee of any agency or entity, having those records or property in his or her possession or under his or her control, to permit access to, and examination and reproduction thereof, upon the request of the Auditor General or his or her authorized representative.

(b) For the purposes of access to and examination and reproduction of the records and property described in subdivision (a), an authorized representative of the Auditor General is an employee or officer of the agency or public entity involved and is subject to any limitations on release of the information as may apply to an employee or officer of the agency or public entity. For the purpose of conducting any audit or investigation, the Auditor General or his or her authorized representative shall have access to the records and property of any public or private entity or person subject to review or regulation by the agency or public entity being audited or investigated to the same extent that employees or officers of that agency or public entity have access. No provision of law providing for confidentiality of any records or property shall prevent disclosure pursuant to subdivision (a), unless the provision specifically refers to and precludes access and examination and reproduction pursuant to subdivision (a). This subdivision does not apply to records compiled pursuant to Chapter 1 (commencing with Section 10200). (c) Any officer or person who fails or refuses to permit access and examination and reproduction, as required by this section, is guilty of a misdemeanor.

10527.1. Where any specific statute bars the access of the Auditor General or the Joint Legislative Audit Committee to any record, the Joint Legislative Audit Committee, by approval of a majority of the members of the committee, may authorize that the Auditor General and the Joint Legislative Audit Committee be granted access, with the right to examine and reproduce, to the records if that access is for the purpose of an audit authorized by the committee to the extent permitted by federal law. That authorization shall include safeguards to prohibit disclosure of any information which identifies by name or address any public social service recipient, or any other record which is protected by law.

10527.2. The Auditor General shall not have access to arrest records of the Department of Justice without the specific authorization of the Joint Legislative Audit Committee and the Attorney General. It is the intent of this section that the Attorney General comply with such a request if it is clear that the information is an essential element of an approved audit and the information will not be used for commercial or political purposes.

10527.3. It shall be a misdemeanor for the Auditor General or any employee of the Auditor General, a member of the Joint Legislative Audit Committee or any employee of the committee to release any information received pursuant to Section 10850 of the Welfare and Institutions Code or Section 10527.1 or 10527.2 of this code, that is otherwise prohibited by law to be disclosed.

10527.4. Nothing in Section 10527.1, 10527.2 or 10527.3, nor any other provision of law shall limit the authority of the Joint Legislative Audit Committee to subpoena records under the authority granted to the committee by the Constitution and the Joint Rules of the Senate and Assembly.

10528. The Auditor General shall make special audits and investigations, including performance audits, of any state agency whether created by the California Constitution or otherwise, and any public entity, including any city, county, and special district which receives state funds, as requested by the Legislature or any committee of the Legislature.

Appendix C

Joint Rules

Joint Legislative Audit Committee

37.3. **The Joint Legislative Audit Committee is created pursuant to the Legislature's rulemaking authority under the California Constitution, and pursuant to Chapter 4 commencing with Section 10500) of Part 2 of Division 2 of Title 2 of the Government Code. The committee shall consist of seven Members of the Senate and seven Members of the Assembly, who shall be selected in the manner provided for in these rules. Notwithstanding any other provision of these rules, four members from each house constitute a quorum of the Joint Legislative Audit Committee and the number of votes necessary to take action on any matter. The Chairman or Chairwoman of the Joint Legislative Audit Committee, upon receiving a request by any Member of the Legislature or committee thereof for a copy of a report prepared or being prepared by the Bureau of State Audits, shall provide the member or committee with a copy of the report when it is, or has been, submitted by the Bureau of State Audits to the Joint Legislative Audit Committee.**

Study or Audits

37.4. (a) Notwithstanding any other provision of law, the Joint Legislative Audit Committee shall establish priorities and assign all work to be done by the Bureau of State Audits.

(b) Any bill requiring action by the Bureau of State Audits shall contain an appropriation for the cost of any study or audit.

(c) Any bill or concurrent, joint, Senate, or House resolution assigning a study to the Joint Legislative Audit Committee or to the Bureau of State Audits shall be referred to the respective rules committees. Before the committees may act upon or assign the bill or resolution, they shall obtain an estimate from the Joint Legislative Audit Committee of the amount required to be expended to make the study.

Waiver

37.5. Subdivision (b) of Rule 37.4 may be waived by the Joint Legislative Audit Committee. The chairman or chairwoman of the committee shall notify the Secretary of the Senate, the Chief Clerk of the Assembly, and the Legislative Counsel in writing when subdivision (b) of Rule 37.4 has been waived. If the cost of a study or audit is less than

one hundred thousand dollars ($100,000), the chairman or chairwoman of the committee may exercise the committee's authority to waive subdivision (b) of Rule 37.4.

Appendix D

Government Code Sections 8546- 8546.8

8546. It is the intent of the Legislature that the Bureau of State Audits have the independence necessary to conduct all of its audits in conformity with "Government Auditing Standards" published by the Comptroller General of the United States and the standards published by the American Institute of Certified Public Accountants, free from influence of existing state control agencies that could be the subject of audits conducted by the bureau. Therefore, all of the following exclusions apply to the office:

(a) Notwithstanding Section 19790, the State Auditor shall establish an affirmative action program that shall meet the criteria and objectives established by the State Personnel Board and shall report annually to the State Personnel Board and the commission.

(b) Notwithstanding Section 12470, the State Auditor shall be responsible for maintaining its payroll system. In lieu of audits of the uniform payroll system performed by the Controller or any other department, the office shall contract pursuant to subdivision (e) of Section 8544.5 for an annual audit of its payroll and financial operations by an independent public accountant.

(c) Notwithstanding Sections 11730 and 13292, the State Auditor is delegated the authority to establish and administer the fiscal and administrative policies of the bureau in conformity with the State Administrative Manual without oversight by the Department of Finance, the Office of Information Technology, or any other state agency.

(d) Notwithstanding Section 11032, the State Auditor may approve actual and necessary traveling expenses for travel outside the state for officers and employees of the bureau.

(e) Notwithstanding Section 11033, the State Auditor or officers and employees of the bureau may be absent from the state on business of the state upon approval of the State Auditor or Chief Deputy State Auditor.

(f) Sections 11040, 11042, and 11043 shall not apply to the Bureau of State Audits. The State Auditor may employ legal counsel under those terms that he or she deems necessary to conduct the legal business of, or render legal counsel to, the State Auditor.

(g) The provisions and definitions of Section 11342 shall not be construed to include the Bureau of State Audits. The State Auditor may adopt regulations necessary for the operation of the bureau pursuant to the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Division 3), but these regulations shall not be subject to the review or approval of the Office of Administrative Law.

(h) The State Auditor shall be exempt from all contract requirements of the Public Contract Code that require oversight, review, or approval by the Department of General Services

or any other state agency. The State Auditor may contract on behalf of the State of California for goods and services that he or she deems necessary for the furtherance of the purposes of the bureau.

(i) (1) Subject to Article VII of the California Constitution, the State Auditor is delegated the authority to establish and administer the personnel policies and practices of the Bureau of State Audits in conformity with Part 2.6 (commencing with Section 19815) of Division 5 of Title 2 without oversight or approval by the Department of Personnel Administration.

(2) At the election of the State Auditor, officers and employees of the bureau may participate in benefits programs administered by the Department of Personnel Administration subject to the same conditions for participation that apply to civil service employees in other state agencies. For the purposes of benefits programs administration only, the State Auditor is subject to the determinations of the department. The Bureau of State Audits shall reimburse the Department of Personnel Administration for the normal administrative costs incurred by the Department of Personnel Administration and for any extraordinary costs resulting from the inclusion of the bureau employees in these state benefit programs.

8546.1. The State Auditor shall conduct financial and performance audits as directed by statute. The State Auditor may conduct these audits of any state agency as defined by Section 11000, whether created by the California Constitution or otherwise, and any local governmental agency, including any city, county, and school or special district. However, the State Auditor shall not audit the activities of the Milton Marks Commission on California State Government Organization and Economy or the Legislature to assure compliance with government auditing standards. The State Auditor shall conduct any audit of a state or local governmental agency or any other publicly created entity that is requested by the Joint Legislative Audit Committee to the extent that funding is available and in accordance with the priority established by the committee with respect to other audits requested by the committee. Members of the Legislature may submit requests for audits to the committee for its consideration and approval. Any audit request approved by the committee shall be forwarded to the State Auditor as a committee request. The State Auditor shall complete any audit in a timely manner and in accordance with the "Government Auditing Standards" published by the Comptroller General of the United States. Immediately upon completion of the audit, the State Auditor shall transmit a copy of the audit report to the commission. Not later than 24 hours after delivery to the commission, the commission shall deliver the report to the Legislature, appropriate committees or subcommittees of the Legislature, and the Governor. Once

transmitted to these parties, the report shall be made available to the public.

8546.3. The State Auditor shall examine and report annually upon the financial statements otherwise prepared by the executive branch of the state so that the Legislature and the public will be informed of the adequacy of those financial statements in compliance with generally accepted accounting principles applied on a basis consistent with that of the preceding fiscal Year. In making that examination, the State Auditor may make the audit examination of accounts and records, accounting procedures, and internal auditing performance that he or she determines to be necessary to disclose all material facts necessary to proper reporting in accordance with the federal Single Audit Act of 1984 (31 U.S.C. Section 7501 et seq.) and the purposes set forth in Section 8521.5.

8546.4. (a) The State Auditor shall annually issue an auditor's report based upon the general purpose financial statements included in the Controller's annual report that is submitted to the Governor pursuant to Section 12460. The auditor's report shall be in accordance with the "Government Auditing Standards" published by the Comptroller General of the United States and the standards published by the American Institute of Certified Public Accountants.

(b) The State Auditor, in the performance of this annual audit, may examine all the financial records, accounts, and documents of any state agency as defined by Section 11000.

(c) The State Auditor shall rely, to the maximum extent possible, upon the audits performed by the Controller, the Department of Finance, internal auditors of state agencies, and independent contractors. The Director of Finance shall be responsible for coordinating and providing technical assistance to the internal auditors of state agencies. Nothing in this article is intended to reduce or restrict the operations of internal auditors whose review of internal financial and administrative controls of state agencies is essential for coordinated audits.

(d) State agencies receiving federal funds shall be primarily responsible for arranging or federally required financial and compliance audits. State agencies shall immediately notify the Director of Finance, the State Auditor, and the Controller when they are required to obtain federally required financial and compliance audits. The Director of Finance, the State Auditor, and the Controller shall coordinate the procurement by state agencies, including any negotiations with cognizant federal agencies, of federally required financial and compliance audits.

(e) To prevent duplication of the annual audit conducted by the State Auditor pursuant to subdivision (a), except for those state agencies that are required by state law to obtain an annual audit, no state agency shall enter into a contract for a financial or compliance audit without prior written approval of the Controller and the Director of Finance, which approval shall state the reason for the contract and shall be filed with the State Auditor at least 30 days prior to the award of the contract. No funds appropriated by the Legislature shall be encumbered for the purpose of funding any contract for an audit that duplicates the annual financial audit conducted by the State Auditor.

(f) Notwithstanding any other provision of this article, nothing in this section shall be construed to limit, restrict, or otherwise infringe upon the constitutional or statutory authority of the Controller to superintend the fiscal concerns of the state.

(g) Notwithstanding any other provision of this article, nothing in this section shall be construed to limit, restrict, or otherwise infringe upon the statutory authority of the Director of Finance to supervise the financial and business policies of the state.

8546.5. The Director of Finance, in coordinating the internal auditors of state agencies, shall ensure that these auditors utilize the "Standards for the Professional Practices of Internal Auditing."

8546.6. The State Auditor, in connection with any audit or investigation conducted pursuant to this chapter, shall be deemed to be a department head for the purposes of Section 11189.

8546.7. Notwithstanding any other provision of law, every contract involving the expenditure of public funds in excess of ten thousand dollars ($10,000) entered into by any state agency, board, commission, or department or by any other public entity, including a city, county, city and county, or district, shall be subject to the examination and audit of the State Auditor, at the request of the public entity or as part of any audit of the public entity, for a period of three years after final payment under the contract. Every contract shall contain a provision stating that the contracting parties shall be subject to that examination and audit. The failure of a contract to contain this provision shall not preclude the State Auditor from conducting an examination and audit of the contract at the request of the public entity entering into the contract or as part of any audit of the public entity. It is the intent of the Legislature that the Regents of the University of California include in contracts involving the expenditure of state funds in excess of ten thousand dollars ($10,000) a provision stating that the contracting parties shall be subject to the examination and audit of the State Auditor, at the request of the regents or as part of any audit of the university, for a period of three

years after final payment under the contract. The examinations and audits under this section shall be confined to those matters connected with the performance of the contract, including, but not limited to, the costs of administering the contract.

8546.8. Unless the contrary is stated or clearly appears from the context, any reference to the Auditor General, the Office of the Auditor General, or the Joint Legislative Audit Committee in any statute or contract in effect on the effective date of this chapter, other than Chapter 4 (commencing with Section 10500), with respect to the performance of audits, shall be construed to refer to the State Auditor, the Bureau of State Audits, and the Milton Marks Commission on California State Government Organization and Economy, respectively.

Appendix E

Government Code Sections 8547- 8547.10
Reporting of Improper Governmental Activities Act

8547. This article shall be known and may be cited as the "Reporting of Improper Governmental Activities Act."

8547.1. It is the intent of the Legislature that state employees and other persons should disclose, to the extent not expressly prohibited by law, improper governmental activities.

8547.2. For the purposes of this article:

(a) "Employee" means any individual appointed by the Governor or employed or holding office in a state agency as defined by Section 11000.

(b) "Improper governmental activity" means any activity by a state agency or by an employee that is undertaken in the performance of the employee's official duties, whether or not that action is within the scope of his or her employment, and that (1) is in violation of any state or federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, or (2) is economically wasteful, or involves gross misconduct, incompetency, or inefficiency. For purposes of Sections 8547.4, 8547.5, 8547.10, and 8547.11, "improper governmental activity or activities" includes any activity by the University of California or by an employee, including an officer or faculty member, that otherwise meets the criteria of this subdivision.

(c) "Person" means any individual, corporation, trust, association, any state or local government, or any agency or instrumentality of any of the foregoing.

(d) "State agency" is defined by Section 11000. "State agency" includes the University of California for purposes of Sections 8547.5 to 8547.7, inclusive.

8547.3. (a) An employee may not directly or indirectly use or attempt to use the official authority or influence of the employee for the purpose of intimidating, threatening, coercing, commanding, or attempting to intimidate, threaten, coerce, or command any person for the purpose of interfering with the right of that person to disclose to the State Auditor matters within the scope of this article.

(b) For the purpose of subdivision (a), "use of official authority or influence" includes promising to confer, or conferring, any benefit; effecting, or threatening to effect, any reprisal; or taking, or directing others to take, or recommending, processing, or

approving, any personnel action, including, but not limited to, appointment, promotion, transfer, assignment, performance evaluation, suspension, or other disciplinary action.

(c) Any employee who violates subdivision (a) may be liable in an action for civil damages brought against the employee by the offended party.
(d) Nothing in this section shall be construed to authorize an individual to disclose information otherwise prohibited by or under law.

8547.4. The State Auditor shall administer the provisions of this article and shall investigate and report on improper governmental activities.

8547.5. Upon receiving specific information that any employee or state agency has engaged in an improper governmental activity, the State Auditor may conduct an investigative audit of the matter. The identity of the person providing the information that initiated the investigative audit shall not be disclosed without the written permission of the person providing the information unless the disclosure is to a law enforcement agency that is conducting a criminal investigation.

8547.6. The State Auditor may request the assistance of any state department, agency, or employee in conducting any investigative audit required by this article. If an investigative audit conducted by the State Auditor involves access to confidential academic peer review records of University of California academic personnel, these records shall be provided in a form consistent with university policy effective on August 1, 1992. No information obtained from the State Auditor by any department, agency, or employee as a result of the State Auditor's request for assistance, nor any information obtained thereafter as a result of further investigation, shall be divulged or made known to any person without the prior approval of the State Auditor.

8547.7. (a) If the State Auditor determines that there is reasonable cause to believe that an employee or state agency has engaged in any improper governmental activity, he or she shall report the nature and details of the activity to the head of the employing agency, or the appropriate appointing authority. If appropriate, the State Auditor shall report this information to the Attorney General, the policy committees of the Senate and Assembly having jurisdiction over the subject involved, and to any other authority that the State Auditor determines appropriate.

(b) The State Auditor shall not have any enforcement power. In any case in which the State Auditor submits a report of alleged improper activity to the head of the employing agency or appropriate appointing authority, that individual shall report to the State Auditor with respect to any action taken by the individual regarding the activity, the first

report being transmitted no later than 30 days after the date of the State Auditor's report and monthly thereafter until final action has been taken.

(c) Every investigative audit shall be kept confidential, except that the State Auditor may issue any report of an investigation that has been substantiated, keeping confidential the identity of the individual or individuals involved, or release any findings resulting from an investigation conducted pursuant to this article that is deemed necessary to serve the interests of the state.

(d) This section shall not limit any authority conferred upon the Attorney General or any other department or agency of government to investigate any matter.

8547.8. (a) A state employee or applicant for state employment who files a written complaint with his or her supervisor, manager, or the appointing power alleging actual or attempted acts of reprisal, retaliation, threats, coercion, or similar improper acts prohibited by Section 8547.3, may also file a copy of the written complaint with the State Personnel Board, together with a sworn statement that the contents of the written complaint are true, or are believed by the affiant to be true, under penalty of perjury. The complaint filed with the board, shall be filed within 12 months of the most recent act of reprisal complained about.

(b) Any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a state employee or applicant for state employment for having disclosed improper governmental activities, is subject to a fine not to exceed ten thousand dollars ($10,000) and imprisonment in the county jail for up to a period of one year. Any state civil service employee who intentionally engages in that conduct shall be disciplined by adverse action as provided by Section 19572. If no adverse action is instituted by the appointing power, the State Personnel Board shall invoke adverse action as provided in Section 19583.5.

(c) In addition to all other penalties provided by law, any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a state employee or applicant for state employment for having disclosed improper governmental activities shall be liable in an action for damages brought against him or her by the injured party. Punitive damages may be awarded by the court where the acts of the offending party are proven to be malicious. Where liability has been established, the injured party shall also be entitled to reasonable attorney's fees as provided by law. However, any action for damages shall not be available to the injured party unless the injured party has first filed a complaint with the State Personnel Board pursuant to subdivision (a) of this section, and the board has failed to reach a decision regarding any hearing conducted pursuant to Section 19683.

(d) This section is not intended to prevent an appointing power, manager, or supervisor from taking, directing others to take, recommending, or approving any personnel action or from taking or failing to take a personnel action with respect to any state employee or applicant for state employment if the appointing power, manager, or supervisor

reasonably believes any action or inaction is justified on the basis of evidence separate and apart from the fact that the person has disclosed improper governmental activities as defined in subdivision (b) of Section 8547.2.

8547.9. Notwithstanding Section 19572, if the State Personnel Board determines that there is a reasonable basis for an alleged violation, or finds an actual violation of Section 8547.3 or 19683, it shall transmit a copy of the investigative report to the State Auditor. All working papers pertaining to the investigative report shall be made available under subpoena in a civil action brought under Section 19683.

8547.10(a) A University of California employee, including an officer or faculty member, or applicant for employment may file a written complaint with his or her supervisor or manager, or with any other university officer designated for that purpose by the regents, alleging actual or attempted acts of reprisal, retaliation, threats, coercion, or similar improper acts for having disclosed improper governmental activities, together with a sworn statement that the contents of the written complaint are true, or are believed by the affiant to be true, under penalty of perjury. The complaint shall be filed within 12 months of the most recent act of reprisal complained about.

(b) Any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a University of California employee, including an officer or faculty member, or applicant for employment for having disclosed improper governmental activities, is subject to a fine not to exceed ten thousand dollars ($10,000) and imprisonment in the county jail for up to a period of one year. Any university employee, including an officer or faculty member, who intentionally engages in that conduct shall also be subject to discipline by the university.

(c) In addition to all other penalties provided by law, any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a university employee, including an officer or faculty member, or applicant for employment for having disclosed improper governmental activities shall be liable in an action for damages brought against him or her by the injured party. Punitive damages may be awarded by the court where the acts of the offending party are proven to be malicious. Where liability has been established, the injured party shall also be entitled to reasonable attorney's fees as provided by law. However, any action for damages shall not be available to the injured party unless the injured party has first filed a complaint with the university officer identified pursuant to subdivision (a), and the university has failed to reach a decision regarding that complaint within the time limits established for that purpose by the regents.

(d) This section is not intended to prevent a manager or supervisor from taking, directing others to take, recommending, or approving any personnel action or from taking or failing to take a personnel action with respect to any university employee, including an officer or faculty member, or applicant for employment if the manager or supervisor

reasonably believes any action or inaction is justified on the basis of evidence separate and apart from the fact that the person has disclosed improper governmental activities.

8547.11 (a) A University of California employee, including an officer or faculty member, may not directly or indirectly use or attempt to use the official authority or influence of the employee for the purpose of intimidating, threatening, coercing, commanding, or attempting to intimidate, threaten, coerce, or command any person for the purpose of interfering with the right of that person to disclose to a University of California official, designated for that purpose by the regents, or the State Auditor matters within the scope of this article.

(b) For the purpose of subdivision (a), "use of official authority or influence" includes promising to confer, or conferring, any benefit; effecting, or threatening to effect, any reprisal; or taking or directing others to take, or recommending, processing, or approving, any personnel action, including, but not limited to, appointment, promotion, transfer, assignment, performance evaluation, suspension, or other disciplinary action.

(c) Any employee who violates subdivision (a) may be liable in an action for civil damages brought against the employee by the offended party.

(d) Nothing in this section shall be construed to authorize an individual to disclose information otherwise prohibited by or under law.

8547.12. (a) A California State University employee, including an officer or faculty member, or applicant for employment may file a written complaint with his or her supervisor or manager, or with any other university officer designated for that purpose by the trustees, alleging actual or attempted acts of reprisal, retaliation, threats, coercion, or similar improper acts for having disclosed improper governmental activities, together with a sworn statement that the contents of the written complaint are true, or are believed by the affiant to be true, under penalty of perjury. The complaint shall be filed within 12 months of the most recent act of reprisal complained about.

(b) Any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a California State University employee, including an officer or faculty member, or applicant for employment for having disclosed improper governmental activities, is subject to a fine not to exceed ten thousand dollars ($10,000) and imprisonment in the county jail for up to a period of one year. Any university employee, including an officer or faculty member, who intentionally engages in that conduct shall also be subject to discipline by the university.

(c) In addition to all other penalties provided by law, any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a university employee, including an officer or faculty member, or applicant for employment for having disclosed improper governmental activities shall be liable in an

action for damages brought against him or her by the injured party. Punitive damages may be awarded by the court where the acts of the offending party are proven to be malicious. Where liability has been established, the injured party shall also be entitled to reasonable attorney's fees as provided by law. However, any action for damages shall not be available to the injured party unless the injured party has first filed a complaint with the university officer identified pursuant to subdivision (a), and the university has failed to reach a decision regarding that complaint within the time limits established for that purpose by the trustees. Nothing in this section is intended to prohibit the injured party from seeking a remedy if the university has not satisfactorily addressed the complaint within 18 months.

(d) This section is not intended to prevent a manager or supervisor from taking, directing others to take, recommending, or approving any personnel action, or from taking or failing to take a personnel action with respect to any university employee, including an officer or faculty member, or applicant for employment if the manager or supervisor reasonably believes any action or inaction is justified on the basis of evidence separate and apart from the fact that the person has disclosed improper governmental activities.

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action.